

REPORTER'S RECORD

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VOLUME 48 OF 84 VOLUMES

TRIAL COURT CAUSE NO. F01-00237-T

STATE OF TEXAS * IN THE DISTRICT COURT
VS. * DALLAS COUNTY, TEXAS
RANDY ETHAN HALPRIN * 283RD DISTRICT COURT

JURY TRIAL

FILED IN
COURT OF CRIMINAL APPEALS

OCT 10 2003

Troy C. Bennett, Jr., Clerk

On the 5th day of June, 2003, afternoon session, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Vickers L. Cunningham, Sr., Judge Presiding, held in Dallas, Dallas County, Texas.

Proceedings reported by machine shorthand.

ORIGINAL

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WITNESS JUROR INDEX

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P R O C E E D I N G S

[Jury in]

THE COURT: Thank you. You may be seated.

DIRECT EXAMINATION CONTINUED

BY MR. KING:

Q. Mr. Halprin, before we broke for lunch we were talking about how you met George Rivas and the events leading up to the escape. The six other individuals with which you escaped from prison, were they, as best you know, involved in any gang activity there at the prison? Were they part of -- were they part of a gang at all that you are aware of?

A. Not that I know of, no, sir.

Q. And did you see them all, once you began working in maintenance, on a regular basis?

A. Most of the guys in the back. The guys in the front I didn't see too much.

Q. Okay. When you started discussing this escape situation with Mr. Rivas, were there occasions when everybody would get together and discuss the escape situation?

A. With Rivas and the people in the warehouse, yes. With the guys in the front, not until the end, no.

Q. Okay. And who did -- who did the planning --

1 who did the majority of the planning of the escape?

2 A. George Rivas.

3 Q. Did you aid or assist in the planning of the
4 escape?

5 A. Not really, not on the big stuff, no, sir.

6 Q. All right. Now, y'all were working in
7 maintenance and that's where the escape began; is that
8 correct?

9 A. Yes, sir.

10 Q. And you were able to overpower, on some
11 occasions some of the individuals were struck with objects
12 over the head; is that correct?

13 A. Yes, sir.

14 Q. Some of the other escapees had prison-made
15 weapons; is that correct?

16 A. Yes, sir.

17 Q. Some type of shank or some type of metal
18 object; is that correct?

19 A. Yes, sir.

20 Q. All right. And those individuals that were
21 overpowered, they were civilian employees of the Texas
22 Department of Corrections for the most part; is that
23 correct?

24 A. Yes, sir.

25 Q. All right. At the end there was also a couple

1 of other inmates that were overpowered and everybody was put
2 into an electrical room of some kind or some type of utility
3 room; is that correct?

4 A. Yes, sir.

5 Q. Some of those individuals had been tied up or
6 bound; is that correct?

7 A. Yes, sir.

8 Q. Clothing was taken from some of those
9 individuals?

10 A. Yes, sir.

11 Q. Part of the escape plan was to move from the
12 maintenance building location to one of the towers so that
13 the gates could be opened and y'all could get out; is that
14 right?

15 A. Yes, sir.

16 MR. SHOOK: Judge, we'll object to
17 leading questions.

18 MR. KING: I apologize for leading, Your
19 Honor. I'm just trying to cover some basic ground. I'm
20 sure Mr. Shook will have an opportunity to flush it out.

21 THE COURT: Still leading. Sustained.

22 Q. (By Mr. King) Were you one of the individuals
23 that went up into the tower?

24 A. No, sir.

25 Q. Who were those individuals that went up into

1 the tower?

2 A. George Rivas, Larry Harper, Patrick Murphy,
3 and Donald Newbury.

4 Q. And did you ever go up into the tower?

5 A. No, sir.

6 Q. Where were you at that point in time?

7 A. I was in the maintenance shop.

8 Q. Okay. At some point in time did y'all leave
9 the prison?

10 A. Yes, sir.

11 Q. And how did you leave the prison?

12 A. In a white pickup truck.

13 Q. And where were you located in the pickup
14 truck?

15 A. I was under a board in the back of the bed of
16 the pickup truck.

17 Q. And was there anybody else under the board
18 with you?

19 A. Yes, sir.

20 Q. Who?

21 A. That was Patrick Murphy, Mike Rodriguez, and
22 Donald Newbury.

23 Q. Would it be safe to say that y'all were hidden
24 underneath this board and the other members were either on
25 top of the board or in the truck?

1 A. I believe they were in the truck.

2 Q. So the truck would have appeared to whomever
3 was in the tower who might be observing this as having three
4 individuals with uniforms of some kind?

5 A. Yes, sir.

6 Q. Driving a State vehicle off the property?

7 A. Yes, sir.

8 Q. Now, were any shots fired during the escape?

9 A. No, sir.

10 Q. Was anybody stabbed during the escape --

11 A. No, sir.

12 Q. -- during the escape? Okay. Once y'all left
13 the prison, where did you go?

14 A. We went to -- actually, we went into the town
15 to a Wal-Mart.

16 Q. And what was the purpose of doing that?

17 A. To pick up a vehicle that had been left there
18 for us.

19 Q. All right. Did you have anything to do with
20 arranging the vehicle to be there?

21 A. No, sir.

22 Q. Presuming that you took that vehicle, did you
23 leave the truck or keep the truck?

24 A. We left the white pickup truck there.

25 Q. And where did y'all proceed from that point?

1 A. Went to San Antonio.

2 Q. Did y'all stay there long?

3 A Just the night.

4 Q. Now, in between that point in time and the
5 Oshman's, were there any robberies committed?

6 A. Yes, sir.

7 Q. Where was the first one?

8 A. Radio Shack in Houston.

9 Q. And did you participate in that robbery?

10 A. Yes, sir.

11 Q. And did you carry a gun in that robbery?

12 A. No, sir.

13 Q. What was your role in that robbery?

14 A. Just to go in and grab stuff.

15 Q. Who did carry weapons in that robbery?

16 A. The only two that I'm aware of were Donald
17 Newbury and George Rivas.

18 Q. And did they go into the Radio Shack and
19 secure the employees?

20 A. Yes, sir.

21 Q. Did y'all take -- what did you take?

22 A. Went in there and grabbed some -- a couple of
23 DVD players, some junk, I believe some phone cards, radios,
24 two-way radios, some scanners, glue, different electronical
25 (sic) components, things like that.

1 Q. Now, were any shots fired at that location?

2 A. No, sir.

3 Q. Were there any confrontations between
4 employees, customers, and Mr. Rivas or anybody else who had
5 a weapon?

6 A. There was actually before we had gone in,
7 somebody had droven up in a van while Rivas was in the
8 process of taking care of the robbery or the employees and
9 putting them in the back. And I just noticed they went into
10 the store with them. And then, you know, later he called us
11 in. When we went in another person showed up at the door
12 and just out of the blue and he told him to go to the back.
13 That was it.

14 Q. All right. So there were some surprises
15 during the course of the robbery, but they resolved in a
16 manner where no one was shot and no one was hurt?

17 A. Yes, sir.

18 Q. Whose idea was it to rob the Radio Shack?

19 A. That was George Rivas'.

20 Q. There's another robbery, is that correct,
21 after that point in time?

22 A. There was a Western Auto.

23 Q. Did you participate in that robbery?

24 A. No, sir.

25 Q. Did you go and help carry anything out of that

1 one?

2 A. No, sir.

3 Q. Who went and did that robbery?

4 A. It was Patrick Murphy, Donald Newbury, Joseph
5 Garcia, Larry Harper, and George Rivas.

6 Q. All right. And who did not go?

7 A. Michael Rodriguez and myself.

8 Q. Why didn't you participate in that robbery?

9 A. Because I told them I wasn't going to rob any
10 more.

11 Q. Did they -- were you left by yourself?

12 A. No.

13 Q. And nobody forced you to go along with these
14 guys, did they?

15 A. No, sir.

16 Q. Why did you want to escape from prison?

17 A. I wanted a chance at a new life.

18 Q. Now, did y'all leave that area after that
19 second robbery?

20 A. We left. I'm not sure of the time period, but
21 we did go to Dallas after that.

22 Q. Okay. Did you -- whose idea was it to rob the
23 Oshman's?

24 A. George Rivas'.

25 Q. Now, I want to talk about the Oshman's. I

1 want to start with going into the store, going into the
2 Oshman's. Who goes into the Oshman's first?

3 A. As best as I can remember, it would have been
4 Donald Newbury and Joseph Garcia.

5 Q. And what were their roles to be?

6 A. I believe Donald Newbury's role was to go to
7 the gun section and Joseph Garcia's role was supposed to go
8 and gather shoes in the shoe section.

9 Q. Who went in next?

10 A. That would have been Michael Rodriguez and
11 myself.

12 Q. And what were y'all's roles?

13 A. To go in and act like we were shopping and
14 fill up a shopping cart.

15 Q. Who went in after that?

16 A. That would have been Larry Harper and George
17 Rivas.

18 Q. And what were their roles?

19 A. Their roles were to act like security guards.

20 Q. Did you have a weapon?

21 A. Yes, sir.

22 Q. What kind of weapon were you carrying?

23 A. I was carrying one of the revolvers from
24 prison.

25 Q. And was there a color coding system?

1 A. Yes, sir.

2 Q. All right. And whose idea was that?

3 A. That was George Rivas'.

4 Q. And did you have tape on your gun?

5 A. I believe, yes, sir.

6 Q. And whose idea was it to put the tape on the
7 guns?

8 A. That was George Rivas'.

9 Q. Once Mr. Rivas and Mr. Harper entered the
10 store, was there at some point in time when there was some
11 indication that the robbery was going down?

12 A. Can you repeat the question again?

13 Q. Sure. Once everybody was in the store, at
14 some point in time the robbery went down, correct?

15 A. Yes, sir.

16 Q. All right. Where were you right before the
17 robbery went down? Where were you? What part of the store
18 were you in?

19 A. I was in the apparel section.

20 Q. All right. And where was Mr. Rivas?

21 A. As the robbery was going down, right?

22 Q. Correct.

23 A. He was up at the front, I think, at the cash
24 registers.

25 Q. And who did he have with him up there?

1 A. The best that I can remember, it was Larry
2 Harper, Joseph Garcia, and Donald Newbury.

3 Q. Now, where was Rodriguez?

4 A. Rodriguez was with me.

5 Q. And what were y'all still doing?

6 A. We were loading up a shopping cart.

7 Q. How did you know the robbery was going down?

8 A. I could hear them, you know. He was within
9 hearing distance and I could hear him from where he was.

10 Q. Now, was everybody also carrying radios?

11 A. Yes, sir.

12 Q. And did all the radios have the ear things or
13 not?

14 A. No, sir.

15 Q. Okay. Just some of the radios?

16 A. Yes, sir.

17 Q. But the radios -- could you hear somebody
18 talking on the radio?

19 A. At the time there was a lot of different
20 chatter. There was just chatter coming from somewhere else.
21 I guess somebody else had some two-way radios and there was
22 some like normal family chatter. And then there was also
23 Rivas who would check in every once in a while and Patrick
24 Murphy would, also.

25 Q. Now, you had a gun?

1 A. Yes, sir.

2 Q. Why did you take a gun in there?

3 A. I felt that I didn't have a choice.

4 Q. What do you mean?

5 A. You know, I, before the robbery, I even told
6 them, I'm not going to go in and carry a gun and there was a
7 little argument and they made it very clear that, you know,
8 it was, you know, their way or the highway. And so I told
9 them I wasn't going to pull a gun and they said, fine, just
10 gather clothes, grab a shopping cart, and gather clothes.

11 Q. Is that what you did?

12 A. Yes, sir.

13 Q. And you heard Wes Ferris testify?

14 A. Yes, sir.

15 Q. Were you one of the individuals up there that
16 made a semicircle and pulled a gun on anybody?

17 A. No, sir, I was not.

18 Q. Once Mr. Rivas had gotten all those
19 individuals corralled, what happened next? What was your
20 role? What happened next?

21 A. As far as that was going down, my role was
22 still where I was, to load the shopping cart up and, you
23 know, stay in that area.

24 Q. What were you looking for?

25 A. I was looking for jackets and, you know,

1 T-shirts, whatever was around that would help us out.

2 Q. Were you -- is that -- were those instructions
3 or were you just grabbing stuff that was attractive to you?

4 A. No. There was specific instructions to grab
5 jackets, you know, T-shirts, long sleeved shirts, you know.

6 Q. Were you doing that just for yourself, though,
7 grabbing clothes just for yourself?

8 A. No sir, no sir.

9 Q. Who were you grabbing clothes for?

10 A. For everybody.

11 Q. All right. The robbery is going down. They
12 have got most of the employees. What happens next?

13 A. Um, I remember hearing on the radio that
14 somebody had somebody -- there was a person in the back
15 because actually during that time Rodriguez had taken off.
16 I don't know where he went at the time, but then he said
17 that he had somebody in the back and they said bring them to
18 the front. I was still where I was and Rodriguez had
19 brought Laura Fernandez by the aisle in front of us and
20 brought them up to the front and then shortly after that he
21 marched -- Rivas marched everybody down the aisle to the
22 back with their hands in front of each other, past me.

23 Q. What happened next?

24 A. At that time, then, there was a call for me to
25 come to the back to grab an employee's T-shirt.

1 Q. To the back, where are you talking about?
2 Where did you go?

3 A. The breakroom.

4 Q. All right. And who was asking you to do that?

5 A. George Rivas.

6 Q. Did you go back there?

7 A. Yes, sir.

8 Q. And what did he give you, if anything?

9 A. He gave me a red employee T-shirt.

10 Q. Did you receive any instructions?

11 A. He said, "Put it on and go to the front and
12 act like you are cleaning up."

13 Q. And what did you do?

14 A. I put it on and went to the front.

15 Q. What was the next thing that happened of
16 significance?

17 A. At that point Rivas came up later with Wes
18 Ferris and took him to the security room where the cameras
19 were. I turned my back as they were walking by and he
20 walked in. And shortly after walked out and dropped off a
21 gym bag and said, "Keep your eye on that," and took off.

22 Q. What happened after that?

23 A. I stayed -- well, the phone rang, the
24 telephone rang. And I called George and I asked him, I
25 said, "There's a phone ringing up here. What do you want me

1 to do"? And he said, "Answer it."

2 Q. So something happens. You are calling Rivas
3 and asking for instructions?

4 A. Yes, sir.

5 Q. Did you answer the phone call?

6 A. Yes, sir.

7 Q. Was there anybody on the line?

8 A. I couldn't hear anything.

9 Q. Did you hang up?

10 A. Yes, sir.

11 Q. What happened next?

12 A. At that point things started to get a little
13 excited and I heard on the radio, "Get out, get out." And,
14 you know, "Go, leave, leave now."

15 Q. What did you do?

16 A. So I grabbed the bag and I grabbed another bag
17 and the bag that George Rivas had placed on the ground and
18 told me, you know, keep your eye on, and I grabbed that and
19 another bag and I ran to the back.

20 Q. Now, when you say you ran to the back, what
21 are you referring to?

22 A. The fire exit at this time.

23 Q. Were you the first one there? The last one
24 there?

25 A. At that time I was the first one at the back.

1 Q. Okay. And did you leave out the fire exit at
2 that point in time?

3 A. I pushed the door open and then Larry Harper
4 came out and he said, "Go grab the long sleeping bag," or
5 ordered me to.

6 Q. Long sleeping bag?

7 A. Right.

8 Q. Where did you go?

9 A. I went and grabbed the sleeping bag and there
10 was a bunch of rifles in it.

11 Q. Where was that? Where was the sleeping bag?

12 A. That was up -- I want to say close, it would
13 be the hunting section or near the -- near where they kept
14 the guns. I'm not sure of that area.

15 Q. Okay. And where was the sleeping bag?

16 A. It was just lying out in the middle of the
17 aisle.

18 Q. Okay. And was it unfolded like a long
19 sleeping bag?

20 A. Right. It was fully out.

21 Q. Okay. And was it zipped up?

22 A. It was zipped up on the side. It had all the
23 guns pushed up in it.

24 Q. Okay. And when you are talking guns, what
25 kind of guns are we talking about?

1 A. I'm not sure of everything that was in there
2 at the time. I know that there were some rifles.

3 Q. Was it white or heavy?

4 A. It was very heavy.

5 Q. Okay. Were you able to pick it up?

6 A. No, I had to drag it.

7 Q. All right. And what did you do? Where did
8 you go with it?

9 A. I ran. I went back to the back.

10 Q. Okay. And did you have the sleeping bag with
11 you?

12 A. Yes.

13 Q. All right. Now, once you got back -- you say
14 back, you talking about the fire exit?

15 A. The fire exit, excuse me.

16 Q. Once you get there, what happens?

17 A. I went down the stairs, the fire exit stairs,
18 and I dragged the bag and I opened up the Ford Explorer
19 door.

20 Q. Where was the Explorer?

21 A. It was almost right in front of the fire exit
22 door.

23 Q. Now, you talking about the exit you came out
24 of?

25 A. Yes.

1 Q. And as you came out, tell us what happened.

2 A. There were a couple of others out at that time
3 and they were bringing stuff out and I was just -- my main
4 concern was just pushing the bag in the car.

5 Q. Now, at that point that you came out, was
6 Officer Hawkins or his vehicle in view?

7 A. No, not at the time.

8 Q. All right. You came -- you come down the
9 stairs and you get to the Ford Explorer; is that right?

10 A. Yes, sir.

11 Q. All right. What door are you at?

12 A. I'm at the left side, actually the driver's
13 side rear door.

14 Q. And what are you doing -- what have you got?
15 What are you trying to put in there?

16 A. I'm trying to shove the sleeping bag with the
17 rifles in.

18 Q. Where are you trying to shove it?

19 A. Into the back seat.

20 Q. Are you talking about the back seat where the
21 passengers sit?

22 A. Yeah, the passenger seats.

23 Q. Okay. Where is -- who's around you at this
24 point in time?

25 A. Um, if I remember correctly, it was -- Joseph

1 Garcia was out, Larry Harper was out, I want to say Michael
2 Rodriguez was outside.

3 Q. Okay. Anybody else?

4 A. George Rivas, also.

5 Q. All right. Where was Rivas?

6 A. Um, this was before the patrol car?

7 Q. Right.

8 A. He was still -- I think he was in the front
9 driver's seat with the door open.

10 Q. Okay. When is the first time you see the
11 patrol car?

12 A. As it was pulling up.

13 Q. And what happens as Officer Hawkins pulls up
14 in the car?

15 A. George Rivas told me to stay put.

16 Q. And what did you do?

17 A. I stayed put.

18 Q. What did George Rivas do?

19 A. He walked up to the patrol car.

20 Q. Now, did the patrol car -- was it still
21 moving? Is that what is happening? Or did it come to a
22 stop?

23 A. At that time I think it was at a full -- it
24 was completely stopped.

25 Q. What's the next thing that happened?

1 A. I remember seeing George Rivas reach for
2 something.

3 Q. What did you think he was reaching for?

4 A. I thought he was reaching for his ID, his
5 security badge.

6 Q. What did you think was going to happen at this
7 point in time?

8 A. I thought that he was going to say, hey, you
9 know, I'm a security guard or something to take him
10 off-guard.

11 Q. Okay. What did you think might happen after
12 that?

13 A. That he would just, you know, say, hey, kind
14 of pretty much what had happened in the previous robberies,
15 that you know, you came at us at a bad time, you know,
16 handcuff him or whatever he's going to do and we were going
17 to go on our way.

18 Q. What ended up happening?

19 A. He ended up firing some shots.

20 Q. All right. What happens -- what do you do
21 when George Rivas -- when you say "firing shots", tell the
22 jury how that happened. What's George Rivas doing?

23 A. He walked up to the car where the patrol car
24 was and he reached back. I saw him reach back for his, what
25 I thought was his security badge. And then at that time he

1 had said something, I can't remember what he said, and then
2 the next thing you know I just heard gunshots.

3 Q. What did you do?

4 A. I freaked out and started running around the
5 car. I ran around the Ford Explorer. The first thing in my
6 mind was get across the field.

7 Q. Okay. Now, had y'all left a car someplace?

8 A. There was a blue Honda across the field at the
9 apartment complex.

10 Q. And why had y'all left a car there?

11 A. In case we had to take off on foot.

12 Q. So is that where you were headed?

13 A. Yes, sir.

14 Q. And as you ran off, what happened?

15 A. I heard somebody call my name. I turned
16 around and that's when I felt my foot go numb.

17 Q. Did you know at that point you had been shot?

18 A. I felt like I had been shot, yes, sir.

19 Q. All right. What happened after that? What's
20 the next thing that happened?

21 A. I had gone down those, like there was like a
22 grassy embankment and I remember going by them. By then, I
23 believe, a lot of people had filed into the car because the
24 car was already moving. I remember Joseph Garcia and
25 Rodriguez doing something and the car, the patrol car,

1 moving back and the car, the Explorer, backing out. And
2 then I heard somebody tell me to, "Get in the car. Get in
3 the car." And I jumped into the front, the right side of
4 the front seat in Newbury's lap.

5 Q. Is that -- that's the front seat of the
6 passenger side?

7 A. Passenger side, yes, sir.

8 Q. Passenger side front seat?

9 A. Right.

10 Q. Now, was there any other gunshots that you
11 heard, other than Rivas?

12 A. Um, everybody that was out there was firing.
13 I mean, it was -- as soon as Rivas had shot, there was a
14 brief pause and then it was just like just nonstop shots.

15 Q. Did you pull your gun and shoot your gun?

16 A. No, sir.

17 Q. Where was your gun?

18 A. At some point in time it fell down my pants.

19 Q. What do you mean?

20 A. It actually -- because I was just holding it
21 like in the jeans belt area, the waist of the jeans, and
22 that's all I had to -- you know, I didn't have a holster or
23 anything. And at some time during all that incident, it had
24 fallen down my pants leg.

25 Q. What kind of pants did you have on?

1 A. I had some bluejeans.

2 Q. Were they bellbottoms or --

3 A. No. They were like, just, you know, like
4 straight leg Levi's or something. I don't know what style
5 you would call them.

6 Q. So you didn't lose your gun, did you?

7 A. No.

8 Q. Where did y'all -- once you jumped in the Ford
9 Explorer, what happened after you jumped in the Ford
10 Explorer?

11 A. Um, I think somebody had said something like,
12 we're missing somebody and everybody turned and looked
13 around and Rodriguez was still outside. And I'm not sure
14 what he was doing, but it looked like he was lost and they
15 told him to get into the car and, you know, I'm not sure
16 where he got in at, but that's when they drove off.

17 Q. Were there any shots fired as y'all drove off?

18 A. When I got into Newbury's -- when I jumped
19 into Newbury's lap, there were a couple more shots, yes,
20 sir.

21 Q. Who fired those?

22 A. Newbury.

23 Q. When he fired those, what happened?

24 A. I yelled, "Oh, shit." I didn't know what was
25 going on.

1 Q. All right. When you were sitting on top of
2 him and he was shooting a gun?

3 A. Yes, sir.

4 Q. Out of the car?

5 A. Yes, sir.

6 Q. Did it affect any part of the car?

7 A. It blew out the window.

8 Q. So he was shooting through a closed window?

9 A. Yes, sir.

10 Q. Where did y'all go from there?

11 A. We drove -- I'm not sure of the directions or
12 anything like that. All I know is we drove straight to the
13 apartment complex.

14 Q. Is there a lot of confusion at this point,
15 obviously?

16 A. Yes, sir.

17 Q. You in any pain at this point?

18 A. Yes, sir.

19 Q. And where did y'all go after you left
20 Oshman's? Who was driving?

21 A. At that time in the Ford Explorer George Rivas
22 was driving it.

23 Q. And where did y'all go?

24 A. We went to the apartment complex.

25 Q. Which one?

1 A. The one across the field. I'm not sure the
2 exact area because George Rivas had actually dropped us off
3 and told us to get out. There was like a white trailer that
4 he dropped us off and we piled out and kicked some bags out
5 and that's where we stayed until -- to wait for the
6 Suburban.

7 Q. When you are talking about his apartment, is
8 this where the car had been left?

9 A. The blue Honda, yes, sir.

10 Q. Okay. Now, who left in the Honda?

11 A. Um, I believe Joseph Garcia, Donald Newbury,
12 and George Rivas.

13 Q. All right. What happened to the Ford
14 Explorer?

15 A. I guess, it was just left there.

16 Q. Who came and picked you up?

17 A. Patrick Murphy.

18 Q. What was he driving?

19 A. The blue Suburban.

20 Q. Did you get in the Suburban and leave with
21 them?

22 A. Yes, sir.

23 Q. Where did y'all go?

24 A. We went to the Econo Lodge where we were
25 staying in.

1 Q. Now, when you got to the -- when you were
2 waiting for Murphy to show up, had you retrieve your gun
3 yet?

4 A. No. In fact, in the parking lot of the
5 apartment complex while we were waiting, I pulled it out of
6 my pants and stuck it in a bag, out of the --

7 Q. So you pulled it out of your pants?

8 A. I pulled it out from the bottom where it had
9 fallen down the leg of the pants and put it in a bag.

10 Q. All right. A bag of what?

11 A. I'm not exactly sure of everything that was in
12 there. I remember a T-shirt and I put it in a T-shirt and
13 put it in the bag.

14 Q. Y'all went to the Econo Lodge?

15 A. Yes.

16 Q. And what happens when you get to the Econo
17 Lodge?

18 A. Somebody helped me upstairs, I can't remember
19 who, and takes me to the bathroom and turns on the faucet
20 and I rinse my foot.

21 Q. All right. Now, did you take off your shoe
22 and your sock?

23 A. In the Suburban on the way over.

24 Q. Okay. Once you were back at the Econo Lodge,
25 what transpired there?

1 A. Um --

2 Q. You are washing your foot?

3 A. Washing my foot and Donald Newbury came in and
4 he said, "What's wrong with you"? And I said, "I've been
5 shot in the foot." And he told me to stop whining and stop
6 crying and he said that George Rivas had been shot and, you
7 know, because I remember him saying he was shot in the car,
8 but I wasn't sure where he was shot at and I asked him where
9 and he goes, "You know where because you did it."

10 Q. What did you say?

11 A. I said, "What are you talking about?"

12 Q. What did he say?

13 A. And he said -- he goes, "You were firing
14 crazy." And I said, "I never shot my gun."

15 Q. What happened then?

16 A. And he said, "Well, we'll see. Where's your
17 gun"? And I said, "It's in a bag somewhere." I was telling
18 him to, "Check the gun, check the gun."

19 Q. Did they go check the gun?

20 A. Yes, sir.

21 Q. And had it been fired?

22 A. No, sir.

23 Q. Now, that took the heat off of you?

24 A. Yes, sir.

25 Q. And what was happening after that, once they

1 figured out it wasn't your gun?

2 A. Um, everybody was trying to shift the blame.
3 Nobody would really give -- nobody said, you know, said it
4 could have been me or maybe I did it or, you know, it was
5 pretty much, you know, they just said what exactly they did.

6 Q. We're in a nice, calm courtroom and you're up
7 on the witness stand and you are answering these questions
8 in kind of a calm manner. Is that what was happening there
9 in the Econo Lodge?

10 A. No, it was very tense. I guess you can say
11 everybody was real excited.

12 Q. Well, when you say "excited", you talking
13 about excited happy?

14 A. No, absolutely not.

15 Q. What was being said about the officer?

16 A. Um, I remember saying something like, you
17 know, what exactly happened? Were y'all -- what were y'all
18 shooting at and everybody was saying, I don't know, I don't
19 know what I was shooting. I was just shooting. And George
20 Rivas said, "I think I killed him." And that's when
21 everybody kind of sat quiet.

22 Q. Did anybody else say they shot at him?

23 A. No, not until later.

24 Q. How long did y'all stay there? Y'all didn't
25 have any medical supplies?

1 A. No.

2 Q. Somebody go get some?

3 A. Yes, sir.

4 Q. Who was that?

5 A. Larry Harper and Donald Newbury.

6 Q. How long did y'all stay there at the Econo
7 Lodge?

8 A. We left the next day.

9 Q. Where did you go?

10 A. We went straight on to Colorado.

11 Q. And did you end up -- were you with anybody
12 when -- were you with them when the RV was purchased?

13 A. No.

14 Q. Did you go to purchase the Honda down in
15 Houston or San Antonio wherever it was purchased?

16 A. No. It was -- I think it was actually
17 purchased -- they said somewhere near Galveston. I'm not
18 sure exactly, but I was at the mall at the time they had
19 gone to purchase the Honda.

20 Q. All right. On the road to Colorado and up in
21 Colorado, did you ever go with them and purchase any
22 vehicles?

23 A. No, sir.

24 Q. Where did you spend most of your time?

25 A. In Pueblo all of my time was spent inside the

1 motel room.

2 Q. And how long did y'all stay in Pueblo?

3 A. A couple of days. I'm not sure how many days
4 exactly.

5 Q. Where did y'all go from Pueblo?

6 A. They had said that they had found an RV --
7 they wanted to actually drive around an RV park and they
8 were like searching and everything and they found a place in
9 Woodland Park.

10 Q. All right. And did they at some point
11 purchase the RV?

12 A. Yes, sir.

13 Q. And did all of y'all stay up there in the RV?

14 A. Yes.

15 Q. Was there ever any discussions -- before the
16 Oshman's, was there ever any discussions about breaking up
17 and y'all going your separate ways?

18 A. Um, I had -- there was like no really verbal
19 -- nobody, you know, said anything at that time. I had in
20 my mind what I was going to do later on.

21 Q. Which was what?

22 A. Which was the first chance I get, go, you
23 know.

24 Q. You probably could have run off at some point,
25 couldn't you?

1 A. Yes, sir.

2 Q. And you didn't?

3 A. No, sir.

4 Q. Had you talked with George Rivas about, before
5 the escape from prison, about the robberies he had been
6 involved in previously?

7 A. He had mentioned them. It was never a --
8 during the escape or the planning of the escape, he was --
9 basically he would talk about them as kind of reassurance
10 like, hey, you know, I know how to put together a plan and
11 make it work.

12 Q. What about once after the escape? Was there
13 -- was the Oshman's or something similar to that, was that
14 part of the plan?

15 A. He talked about Toys R Us. As far as
16 something big like the Oshman's, he talked about a Toys R Us
17 that he had done something big before.

18 Q. All right. And did you know much about that
19 particular offense?

20 A. I knew that was the one that he got caught on.

21 Q. Was there some general feeling among the group
22 that y'all ought to split up into smaller sections? I mean,
23 you are seven guys that had broke out of prison.

24 A. They talked about whenever they would go into
25 the city or wherever they would go, they talked about, you

1 know, actually having smaller groups.

2 Q. What was it about this Oshman's?

3 A. Um, George Rivas just said he could do it. I
4 mean, is there a more specific question?

5 Q. Well, what was it about George Rivas? I mean,
6 what was the -- surely you could have gone some place with
7 less people?

8 A. Well, I had originally thought that there were
9 going to be less people that night. That's the way he had
10 talked it up.

11 Q. So you were surprised at the number of people
12 that were there?

13 A. Yeah, I was very surprised. I didn't think it
14 was going to happen when I saw how many people were in
15 there.

16 Q. Was there any conversation among any of y'all
17 in the planning of this Oshman's that if there was a serious
18 confrontation, you were going to kill anybody?

19 A. No, sir.

20 Q. Had there been confrontations between Rivas
21 and individuals and Newbury and individuals in the previous
22 two robberies before the Oshman's?

23 A. There had been confrontations.

24 Q. Had those been resolved without firing a shot,
25 the best you understood?

1 A. Yes, sir.

2 Q. Now, once you are up in Colorado and you are
3 staying in the RV, did you go much of any place? Did you go
4 to any massage parlors?

5 A. No, I did not go to a massage parlor.

6 Q. Did you go any place? Where did you go?

7 A. I went to Wal-Mart. Went to a CD store. It
8 was called -- I can't remember -- the Independent Records or
9 something. And I went there a couple of times.

10 Q. Did you go by yourself?

11 A. No.

12 Q. Who went with you?

13 A. Rodriguez.

14 Q. You went to the CD store. Did you go by
15 yourself?

16 A. No.

17 Q. Who went with you?

18 A. Rodriguez.

19 Q. Did you ever go anyplace by yourself?

20 A. No place by myself.

21 Q. Were you ever given access or asked to borrow
22 the car so you could go drive down to the store and pick up
23 milk or ice or food or --

24 A. No, I knew that was pointless.

25 Q. What do you mean?

1 A. Rivas wouldn't trust me to do something like
2 that. He would probably think I would take off with the
3 car.

4 Q. No honor among thieves?

5 A. Pretty much.

6 Q. How did you spend the majority of your time,
7 Mr. Halprin, there in Colorado?

8 A. In Colorado?

9 Q. Yes, sir.

10 A. Mostly listening to CDs and watching movies in
11 the RV.

12 Q. You understand what this jury's role is in
13 this trial?

14 A. Yes, sir.

15 Q. You gave a statement to Detective Spivey; is
16 that right?

17 A. Yes, sir.

18 Q. Did you -- other -- and you have heard me read
19 the statement that you gave in court. Were there other
20 things that you talked to Mr. Spivey or Detective Spivey
21 about that weren't included in the statement?

22 A. Yes, sir.

23 Q. Like what?

24 A. I gave him the color codes. There were, you
25 know, some different parts of the statement where, you know,

1 I would be dictating a statement and he would pause and say,
2 okay, well, what exactly happened at this part and I would
3 go into a little, you know, greater detail of what I could
4 remember. And then he would move on and discuss things and
5 I remember showing him how I had gone around the car and do
6 -- or where the car was at.

7 Q. Which car are you talking about?

8 A. The Explorer and how I moved around the car
9 and there was a little sketch or something.

10 Q. All right. Now, did he ever ask you if you
11 fired your gun?

12 A. Yes.

13 Q. What did you tell him?

14 A. I told him I didn't fire my gun.

15 Q. Now, did he trick you into giving a statement
16 or anything like that?

17 A. No, sir.

18 Q. And did he, as he testified to, did he read
19 you your Miranda rights and tell you that you had a right to
20 have a lawyer and you didn't have to talk to him and they
21 would appoint a lawyer to represent you?

22 A. Yes, sir.

23 Q. And ultimately you did have a Colorado lawyer
24 appointed to represent you at some point, did you not?

25 A. Yes, sir.

1 Q. Did -- after you were interviewed by Mr. -- or
2 Detective Spivey, did -- were there a lot of news people up
3 there?

4 A. Yes, sir. But before that I was actually
5 interviewed by TDC and their investigation or whatever.

6 Q. They got there before Detective Spivey did?

7 A. No, that was after.

8 Q. All right. So Detective Spivey, was he the
9 first law enforcement officer that actually takes a
10 statement from you of some kind?

11 A. Yes, sir.

12 Q. And then there's somebody from the Texas
13 Department of Corrections that takes some kind of statement
14 from you?

15 A. Yes, sir.

16 Q. And did you just handwrite something for them
17 or did they just -- how did that go?

18 A. They only asked me -- I had the lawyer. It
19 was actually the following day, the lawyer that had been
20 given to represent me at the time was there and so they --
21 they didn't even ask me any questions. And I told them I
22 would cooperate and they only asked a couple of things like
23 if any guards helped out or anything like that. And then
24 they just said that was it.

25 Q. Okay. So apparently their focus was wanting

1 to know if y'all had had some aid or assistance from inside
2 to break you out?

3 A. Yes, sir.

4 Q. Then did you talk to the news media?

5 A. Yes, sir.

6 Q. And did they, the new media, videotape some
7 interviews with you?

8 A. Yes, sir.

9 Q. And you also talked to them on the telephone,
10 did you not?

11 A. Yes, sir.

12 Q. And did they always tell you that they were
13 going to record the conversation?

14 A. Yes, sir.

15 Q. What statements, if any, did you give the news
16 media about whether or not you had discharged a firearm or
17 shot Officer Hawkins?

18 A. I told every single one that I did not ever
19 pull a gun and I didn't ever fire the gun.

20 Q. Now, you are in the RV with Larry Harper; is
21 that right?

22 A. Yes, sir.

23 Q. Rivas and -- Rivas, Garcia, and Rodriguez had
24 left and gone towards town, apparently?

25 A. Yes, sir.

1 Q. Where were Newbury and Murphy at that point?

2 A. They had actually gone to Colorado Springs.

3 Q. How long had they been gone?

4 A. They had been gone over the weekend, that
5 weekend.

6 Q. What car were they traveling in?

7 A. It was a van.

8 Q. So a van had been purchased, a Jeep had been
9 purchased, and an RV had been purchased?

10 A. Yes, sir.

11 Q. And who normally was using the van?

12 A. That was primarily Patrick Murphy and Donald
13 Newbury. When I would go into town to Wal-Mart or whatever,
14 Rodriguez was driving.

15 Q. When did you first figure out that there was
16 police outside the RV?

17 A. Actually heard some chatter on the
18 walkie-talkie, but I didn't know that they were actually
19 outside of the RV.

20 Q. What kind of chatter did you hear?

21 A. There were some people on the highway. There
22 was a roadblock and there was a lot of confusion and
23 everybody was, you know, saying, you know, "What's the road
24 block for?" And somebody said, "I think it's them boys from
25 Texas."

1 Q. What did you do?

2 A. And that's when I looked out the window and I
3 started looking out the window and I went to the bathroom
4 and I looked out the bathroom window and I could see at an
5 angle from where I was there was a white van and I could see
6 somebody hiding behind the van with a gun.

7 Q. While you are around the camp and you are
8 inside the van, are you carrying, physically carrying a
9 weapon on your person?

10 A. No, sir.

11 Q. Had you been given a weapon?

12 A. Yes, sir.

13 Q. And what weapon had you been given?

14 A It was -- I'm not sure of the model. It was
15 like a .22 gun, had a real long barrel on it.

16 Q. And where was that?

17 A. It was in my backpack.

18 Q. Was there some type of color designation on
19 your stuff?

20 A. Yes, sir, it was green.

21 Q. Was there any tape on your backpack?

22 A. Yes, it was a strip of green tape.

23 Q. When you look out the windows, what did you
24 see and what's the next thing you did?

25 A. The only thing that I could actually

1 physically see was somebody hiding behind a white van. I
2 could see their silhouette and I thought I saw the barrel of
3 a rifle or some kind of gun.

4 Q. What did you think?

5 A. I told Larry, I said, "They got us."

6 Q. What happened next?

7 A. And he said, "Well, what are you going to do"?
8 And I said, "I'm going to surrender." And he said, "That's
9 okay." And I said, "Is there anything you want me to tell
10 them"? And he said, "Tell them I want to talk to my
11 father."

12 Q. Did you leave the van?

13 A. I walked out the RV, yes, sir.

14 Q. Did you surrender?

15 A. Yes, sir.

16 Q. Did you relay that information to law
17 enforcement?

18 A. Yes, sir.

19 Q. Now, what was the state of your foot at that
20 point in time?

21 A. It was still pretty bad. It was bad, it was
22 bandaged up and I was keeping a sock over it to hold the
23 bandages in place and I was wearing a sandal because I
24 wouldn't put on a shoe.

25 Q. There are some photographs that have been

1 introduced and you are aware of the medical record. Where
2 did you get hit in the foot?

3 A. I got hit -- it was actually the first four
4 toes. It went through on the side, went clear through,
5 and messed this toe up completely. And then it kind of
6 grazed under the second toe like this (demonstrating) and it
7 broke, it snapped the bone, and then it started going out
8 like this, and it came out like that on the third toe and
9 just nicked the fourth toe.

10 Q. They took you to the hospital there in
11 Colorado?

12 A. Yes, sir.

13 Q. A little medical center. And the doctor saw
14 you there --

15 A. Yes, sir.

16 Q. -- and took an x-ray and made you a little
17 chart; is that correct?

18 A. Yes, sir.

19 Q. Did he give you some antibiotics or give you a
20 shot or anything?

21 A. They gave me -- they took some blood and I
22 remember them giving an antibiotic shot and putting me on
23 antibiotic medicine.

24 Q. When did you first find out for sure that
25 Officer Hawkins was dead?

1 A. That following morning.

2 Q What thoughts were you having at that point?

3 A. I was just wondering how something like that
4 could happen. I mean, I felt awful. In fact, Larry and I
5 cried.

6 Q. Why? What was he to you?

7 A. Because it was a life.

8 Q. What did you think was going to happen?

9 A. Happen with what?

10 Q. Once you realized Officer Hawkins had been
11 killed, what did you think was going to happen at that
12 point?

13 A. My mind was kind of numb. When Rivas said,
14 go, everybody -- we left. I mean, I wasn't -- my mind
15 wasn't on anything else but that, the incident. And whether
16 we would get caught or anything, that wasn't on my mind.

17 Q. What did you think was going to happen, if you
18 got caught?

19 A. I thought we'd come back, you know, and be
20 tried for capital murder.

21 Q. Before you got charged in Ft. Worth and while
22 you were living in -- where was it? I'm sorry, Kentucky?
23 Tennessee?

24 A. Kentucky.

25 Q. Kentucky. You got in some trouble there on

1 some theft; is that right?

2 A. Right, fraudulent use of a credit card.

3 Q. You also stole some checks or something; is
4 that right?

5 A. Batteries when I was 17.

6 Q. And you got put on a misdemeanor probation for
7 that; is that right?

8 A. For the fraudulent use of a credit card, yes,
9 sir.

10 Q. And that was the first time you had ever gone
11 to court?

12 A. Yes, sir.

13 Q. And then you went to the -- ultimately to the
14 Arlington Shelter; is that right?

15 A. Right. The summer, during the summer.

16 Q. What made you think that somebody wasn't going
17 to get shot and killed during this robbery?

18 A. Basically from the first two robberies. There
19 were known conflicts and nothing happened.

20 Q. What was Murphy's role in the Oshman's
21 robbery?

22 A. He was basically a lookout to monitor the
23 scanners and radios and watch the parking lot to see if
24 there were any, you know, patrol cars patrolling through or
25 anything like that.

1 Q. To the best of your knowledge, is that what he
2 did?

3 A. To the best of my knowledge.

4 Q. To the best of your knowledge, did he shoot at
5 anybody?

6 A. No, sir.

7 Q. Were you ever told that he was supposed to act
8 as a sniper or get into a fire fight with anybody?

9 A. No, sir, not in front of my presence that was
10 never discussed.

11 Q. Did George Rivas have an ego?

12 A. Yes, sir.

13 Q. Why do you think he wanted to do this Oshman's
14 robbery?

15 A. My personal opinion?

16 Q. Yes, sir.

17 A. To prove that he could do it.

18 Q. Prove he could do it and get away with it?

19 A. Yes, sir.

20 Q. What were y'all looking for to get out of the
21 this Oshman's robbery?

22 A. Clothes, camping gear, radios, and guns.

23 Q. So it provided -- this is wintertime, right?

24 A. Yes, sir.

25 Q. It provided everything that you could think of

1 -- was there already a plan to go someplace after the
2 Oshman's robbery?

3 A. Not to my knowledge. Everything was Rivas
4 kind of made it up as he went along. There was no exact
5 spot that we were supposed to go after that, no, sir.

6 Q. So it wasn't a game plan that you were going
7 to rob the Oshman's and then go to Colorado? That hadn't
8 been discussed?

9 A. No, it hadn't been discussed. In fact,
10 Colorado didn't come up until, you know, when they -- the
11 night after the incident happened, that's when they said,
12 where are we going to go, and I think New Mexico came up and
13 Nevada and Colorado and a couple of other states.

14 Q. Where was it that you wanted to go?

15 A. When I decided to break away from the group, I
16 wanted to go to Seattle.

17 Q. When did you decide that you wanted to break
18 away from the group?

19 A. Actually in Houston at the Western Auto after
20 they did the Western Auto. I had it in my mind that that's
21 where I was going to go.

22 Q. If you could get away when the smoke cleared?

23 A. Yes, sir.

24 Q. Now, did you have some type of agreement with
25 Rivas that you would stay with him any length of time?

1 A. He had told me when I started discussing
2 about, you know, what my intentions were, he said, "Well,
3 you owe me six months."

4 Q. "You owe me six months," what did he mean?

5 A. He meant for getting me out of prison.

6 Q. Yeah, but what did he mean that you owed him
7 six months?

8 A. I owed -- I guess six months of active duty or
9 six months of robbing or whatever his plans were.

10 Q. That was in exchange for having helped you
11 escape?

12 A. Yes.

13 Q. And including you in there?

14 A. Yes, sir.

15 Q. Did you have any particular skills? Had you
16 ever been in the military before?

17 A. No, sir.

18 Q. Had you ever owned any firearms?

19 A. No, sir.

20 Q. Had you ever gone bird hunting or anything
21 like that?

22 A. No, sir.

23 Q. Had you ever owned a pistol before?

24 A. No, sir.

25 Q. How about your dad? Did he own any guns?

1 A. No, sir. There were no guns in our house.

2 Q. You didn't graduate from high school, did you?

3 A. No, sir.

4 Q. Did you attend any classes while in custody?

5 A. I got my GED in Tarrant County Jail.

6 Q. Did you have any building skills? Had you
7 been a carpenter? A plumber? Had you been a ham radio
8 operator? I mean, did you have any actual skill with this
9 -- that this group would utilize?

10 A. No, sir.

11 Q. I mean, once Rivas started talking about
12 giving you a job in maintenance, did you have any skills in
13 maintenance?

14 A. No, I had no maintenance skills.

15 Q. Had you held any kind of jobs once you were
16 expelled from Oneida? Did you hold any kind of jobs?

17 A. Just fast food and temporary labor.

18 Q. When you say "fast food", what did you do?

19 A. I worked at Subway for a little while, a place
20 called Steak Fest and mainly when I stopped working there
21 when I realized that I could just get money in a day, Labor
22 World or Labor Ready.

23 Q. What did they have you do?

24 A. Send me out wherever they needed somebody to
25 pick up trash or whatever.

1 Q. Just typical day labor stuff?

2 A. Yes, sir.

3 Q. Just manual labor?

4 A. Yes, sir.

5 Q. Do you realize that as a result of the
6 robbery, Officer Hawkins is dead? You realize that?

7 A. Yes, sir.

8 Q. Did you ever have any intention, yourself, of
9 shooting somebody or killing anyone?

10 A. No, sir, never in my life.

11 Q. Best of your knowledge, was there any
12 discussion by anyone else of shooting anybody or killing
13 anybody during the course of any robbery?

14 A. No, sir.

15 Q. But you knew everybody was armed?

16 A. Yes, sir.

17 Q. And your gun -- you had bullets in your gun?

18 A. Yes, sir.

19 Q. And you voluntarily took the gun in there?

20 A. Yes, sir.

21 Q. And you participated in the aggravated
22 robbery?

23 A. Yes, sir.

24 Q. And you enjoyed the proceeds from that
25 robbery. You got some money?

1 A. Yes, sir.

2 Q. They split up the money and gave you an equal
3 share; is that right?

4 A. Yes, sir.

5 Q. How much was that?

6 A. About five thousand.

7 Q. Now, this case in Ft. Worth, this injury to a
8 child, did you hire an attorney or did you get one appointed
9 to represent you?

10 A. One was appointed to me.

11 Q. And from the time you got arrested until the
12 time you entered a plea, how much time passed?

13 A. Um, I want to say eight or nine months. It
14 was from September to May, so.

15 Q. All right. Did you have any family members or
16 anybody show up at your sentencing?

17 A. No, sir.

18 Q. Or the day you did the plea?

19 A. No, sir.

20 Q. Had you given your lawyer the names of your
21 family for the lawyer to contact?

22 A. Yes, sir.

23 Q. And you were 18 years old at the time?

24 A. I was 19 when I pled, but I was 18 when I went
25 into jail, yes.

1 Q. So the only person helping you make any
2 decisions as to whether or not you should have a trial or
3 whether or not you should try to fight charges or whether or
4 not you should enter a plea would be your attorney?

5 A. Yes, sir.

6 Q. And that was Mr. Mark Perez?

7 A. Yes, sir.

8 Q. Did Mr. Perez seem to be trying to do the best
9 he could for you?

10 A. Not really, no.

11 Q. Were any witnesses called at your sentencing
12 by your lawyer?

13 A. No, sir.

14 Q. Once again, though, you did do -- slap this
15 child, hit this child on the head, and kick this child and
16 grab this child and shook it, didn't you?

17 A. Yes, sir.

18 Q. You are aware that that certainly caused some
19 of the damages, if not all of the damages?

20 A. Yes, sir.

21 Q. Do you recall whether Mr. Perez ever sat down
22 with you and discussed the medical records of the child with
23 you?

24 A. He was very vague about it.

25 Q. But you knew what you had done?

1 A. Yes, sir.

2 Q. And he told you what the injuries were to the
3 child?

4 A. Yes, sir.

5 Q. And they were pretty bad, weren't they?

6 A. Yes, sir.

7 Q. He told you this was a first-degree felony?

8 A. Yes, sir.

9 Q. And that you could receive anywhere from five
10 years to 99 years or life in prison?

11 A. Yes, sir.

12 Q. If you had a trial?

13 A. Yes, sir.

14 Q. Had you stayed in prison when would you have
15 become eligible for parole; do you recall?

16 A. Thirty-four, thirty-three, or thirty-four.

17 Q. What do you mean?

18 A. I had to do half of it, 15 years, so.

19 Q. So you would have been 33 or 34?

20 A. When I was eligible for parole, yes, sir.

21 Q. Now, you had been in prison five years at that
22 point?

23 A. Yes, sir.

24 Q. Did you know very many people that had been
25 paroled?

1 A. No, not really.

2 Q. And did you have any personal opinion of the
3 percentage of people around you how much of a sentence were
4 they serving, what percentage of their sentences were they
5 serving?

6 A. Eighty-five to ninety percent.

7 Q. Is that whether it was aggravated or
8 unaggravated?

9 A. Yes, sir.

10 Q. So even though they became eligible for
11 parole, people weren't necessarily getting paroled?

12 A. No, sir.

13 Q. What did that mean to you?

14 A. That meant that when my time came up, whether
15 I showed that I was rehabilitated or good behavior or
16 anything like that, that they weren't even going to look at
17 that. They were going to close my file and pass it on for
18 another couple of years, open it up, and pass it on another
19 couple of years, just review me every couple of years, but
20 keep setting me off.

21 Q. What did you think about that?

22 A. It didn't settle with me.

23 Q. Do you think that you needed to be punished
24 for what you did to the child?

25 A. Yes, sir.

1 Q. What sense did it make to try to escape, then?

2 A. I wanted a second chance. I knew that I would
3 never do something like that again.

4 Q. You've had a chance to look back now.
5 Anything you can tell this jury about what happened there at
6 the Oshman's? Anything at all that you can say?

7 A. I can tell all of y'all that I did not intend
8 the death of the officer. I didn't shoot him. I didn't
9 pull my gun. I didn't (phonetic) want to rob the people.
10 Obviously I did, but I didn't anticipate anybody being
11 killed. I didn't know that anybody was going to be killed
12 and then, you know, I live with it every day. Every time I
13 look at my foot I think back to that night and it's
14 something I live with. And I understand the consequences,
15 but I didn't kill him. I didn't want anybody to die or
16 anybody to be hurt.

17 Q. Anything that you can do to bring him back?

18 A. No, sir.

19 Q. You understand that this is the guilt and
20 innocence phase of your trial. You understand that?

21 A. Yes, sir.

22 Q. You understand that the jury has to decide
23 what they believe the evidence to show in this case?

24 A. Yes, sir.

25 Q. We've talked about what that standard of

1 evidence is in regard to you being a party or not being a
2 party to capital murder. You understand that?

3 A. Yes, sir.

4 Q. And each of these jurors sitting over here,
5 they were part of the voir dire and we sat with them for a
6 better part of an hour and a half, talking about the law,
7 didn't we?

8 A. Yes, sir.

9 Q. Now, have you been in general population here
10 in custody in Dallas County?

11 A. No, sir.

12 Q. And where have you been kept?

13 A. They have kept me in a single cell, isolated.

14 Q. And you get out for recreation?

15 A. No recreation.

16 Q. You've lost some weight since you've been in
17 here, haven't you?

18 A. Yes, sir.

19 Q. How much weight have you lost?

20 A. I guess about at the most 25 pounds.

21 Q. When you went to prison originally, did you
22 end up gaining weight while you were in prison?

23 A. Yes, sir.

24 Q. Is that because you were outside being on
25 physical labor on a regular basis and eating and doing all

1 that stuff?

2 A. Yes, sir.

3 Q. Did you have commissary privileges?

4 A. Yes, sir.

5 Q. To buy snack food and that kind of stuff?

6 A. I never did, but I had access to it, yes, sir.

7 Q. Did you have anybody putting money on your

8 books while you were down there in prison?

9 A. No, sir.

10 Q. Did you have to have money to buy commissary?

11 A. Yes, sir.

12 Q. Was your situation in prison better before you

13 escaped than it is the way they've got you locked up now?

14 A. Yes, sir.

15 Q. You had a lot more freedom?

16 A. Yes, sir.

17 Q. I believe Mr. Shook is going to have some

18 questions for you.

19 A. Okay.

20 MR. KING: Pass the witness, Your Honor.

21 THE COURT: Do you want a break now?

22 MR. SHOOK: Yes, sir.

23 THE COURT: We'll take our afternoon

24 break. Fifteen minutes.

25 [Jury out]

1 (Recess)

2 [Jury in]

3 THE COURT: Thank you, you may be seated.

4 CROSS-EXAMINATION

5 BY MR. SHOOK:

6 Q. Mr. Halprin, you realize, of course, this jury
7 is judging your credibility as a witness, do you not?

8 A. Yes, sir.

9 Q. They have to. Obviously Aubrey Hawkins is not
10 going to come in here and tell us what happened in that
11 loading dock area, is he?

12 A. Yes, sir.

13 Q. I'm sorry?

14 A. You're right, sir.

15 Q. And you are a convicted felon. You pled
16 guilty; is that right?

17 A. Yes, sir.

18 Q. Didn't have a trial. You entered a plea of
19 guilty?

20 A. Yes, sir.

21 Q. Received a 30-year sentence?

22 A. Yes, sir.

23 Q. As part of a plea bargain agreement?

24 A. Yes, sir.

25 Q. For the first-degree felony offense of injury

1 to a child?

2 A. Yes, sir.

3 Q. And when you were arrested for that offense
4 was in September of 1996?

5 A. Yes, sir.

6 Q. How old were you at that time?

7 A. I was 18.

8 Q. When did you turn 19?

9 A. I turned 19 September 13th.

10 Q. So you had been in jail about a week before
11 you turned 19 years old?

12 A. I believe I went to jail on September 5th, so,
13 yes, sir.

14 Q. Okay. So you were almost 19 when you
15 committed the offense?

16 A. Yes, sir.

17 Q. Now, you have had a long history of lying,
18 have you not?

19 A. During my drug years, yes, sir.

20 Q. Well, during your entire life, haven't you
21 always lied?

22 A. I don't believe so, sir, no.

23 Q. Wasn't that one of the major problems? You
24 were always lying to your parents?

25 A. Only when I started doing drugs, sir.

1 Q. And when was that?

2 A. It was about when I was 16.

3 Q. Have you quit lying?

4 A. I mean -- I don't just lie to lie.

5 Q. Well, did you used to lie just to lie?

6 A. I used to lie, yes, sir.

7 Q. Well, when was the last -- when did you quit
8 lying?

9 A. I'm not exactly sure, sir.

10 Q. Do you still lie when the situation calls for
11 it?

12 A. I've lied, yes, sir.

13 Q. Okay. When was the last time you lied?

14 A. Could have been a day ago. It could have been
15 a week ago. I'm not sure.

16 Q. Do you lie on a weekly basis?

17 A. I'm not sure, sir.

18 Q. What do you lie about?

19 A. You would have to ask me a specific question.
20 I'm not --

21 Q. Can you not remember what you lie about?

22 A. I mean, I know I've lied.

23 Q. Well, are you telling this jury you really --
24 you lie a lot and you are not sure what you may have lied
25 about in the last week or two, for instance?

1 A. You would have to give me a specific thing, a
2 specific question of what I've lied about.

3 Q. Let me ask you this, Mr. Halprin, is that your
4 character that you lie a lot?

5 A. I've lied, yes, sir.

6 Q. Do you lie a lot?

7 A. I've lied a lot, yes, sir.

8 Q. Would you describe yourself as a pathological
9 liar?

10 A. I've been a pathological liar, yes, sir.

11 Q. When did you quit being a pathological liar?

12 A. I'm not sure.

13 Q. Have you quit being a pathological liar?

14 A. I don't just lie constantly. Everybody lies.

15 Q. But you still lie on occasion?

16 A. I've lied, yes, sir.

17 Q. It's part of your character?

18 A. I've lied.

19 Q. Well, when you got arrested and put in jail,
20 you tried to contact your parents; is that right?

21 A. Yes, sir.

22 Q. Do you remember writing a letter to them on
23 September 13th of 1996?

24 A. Yes, sir.

25 Q. Telling them, "This week has been such an

1 eye-opener to me. I know what you both are probably
2 thinking right now, oh, great, Randy is feeding us his
3 regular bull and lies. Y'all have every right in the world
4 to believe that. In fact, I don't expect y'all to believe.
5 Sometimes I don't even believe myself."

6 Is that an example of the type of lying that
7 you have?

8 A. Yes, sir.

9 Q. Obviously, then, you have lied to your parents
10 in the past?

11 A. Yes, I have lied to them.

12 Q. Prior to this offense in 1996?

13 A. Yes, sir.

14 Q. Do you have a long history of lying to your
15 parents in the past?

16 A. During my drug years. And I believe that was
17 during my drug years.

18 Q. "I never even thought I could even hit a
19 little kid, an infant at that. I never thought I would be a
20 victim of drugs. I never thought I'd end up standing --" is
21 that standing?

22 A. Stealing.

23 Q. "-- stealing from people who tried to help me
24 out, ruining every chance to start over."

25 You have been given a lot of chances in life,

1 haven't you, Mr. Halprin?

2 A. Yes, sir.

3 Q. And you have blown all those chances, haven't
4 you?

5 A. Yes, sir.

6 Q. Your parents gave you a whole lot of chances
7 when you were growing up?

8 A. Yes, sir.

9 Q. I'll show you another letter which is marked
10 December 18th, 1996. Start that one off saying, "I know my
11 word didn't mean, doesn't account for much of anything."

12 A. Yes, sir.

13 Q. That was back in your pathological lying
14 days?

15 A. Yes, sir.

16 Q. And then on 11-2 of '98, this letter would
17 have been from prison, I guess?

18 A. 1998, yes, sir.

19 Q. You tell them, "The Randy you knew a couple of
20 years ago was a drug induced pathological liar. I was much
21 more concerned about finding something to ease my boredom
22 and depression and I gave up the only true thing that I ever
23 loved was you."

24 Now, your parents, they worked with you a lot,
25 didn't they?

1 A. Yes.

2 Q. And you didn't talk about them much on direct,
3 but I almost got the impression that it was like they just
4 abandoned you or shoved you off to Kentucky. That wasn't
5 the case, was it?

6 A. No, sir.

7 Q. They did all types of things. They -- first
8 of all, they provided you with a loving home when you grew
9 up, didn't they?

10 A. Yes, sir.

11 Q. They -- you went to good schools?

12 A. Yes, sir.

13 Q. Went on good vacations?

14 A. Yes, sir.

15 Q. When you had problems in school, they provided
16 tutors for you?

17 A. Yes, sir.

18 Q. They even took you to a psychologist?

19 A. Yes, sir.

20 Q. Of course, you had problems -- how old were
21 you when you went to see a psychologist?

22 A. I think 12, somewhere around that.

23 Q. You had problems with lying back then, didn't
24 you?

25 A. I had lied before. I don't think that I had

1 problems with lying.

2 Q. One of the reasons that you left and went up
3 to Kentucky, you did that without permission on one
4 occasion; is that right?

5 A. Um, in '95, yes, sir.

6 Q. It was because you couldn't get away with
7 things at home.

8 A. No, sir.

9 Q. That's why you left is they would catch you
10 and punish you and hold you accountable?

11 A. Can you give me a specific incident?

12 Q. Let me show you in your letter. "I gave up
13 everything --"

14 MR. KING: Excuse me, Mr. Shook, but we
15 would object to Mr. Shook reading from something that's not
16 in evidence.

17 THE COURT: Sustained.

18 Q. (By Mr. Shook) Let me show you State Exhibit
19 938. This is the letter I showed you earlier dated 11-2-98;
20 is that right?

21 A. Yes, sir.

22 MR. SHOOK: Your Honor, at this time we
23 offer State Exhibit 938.

24 MR. KING: No objection.

25 THE COURT: No. 938 shall be admitted.

1 Q. (By Mr. Shook) "I gave up everything for a
2 girl and drugs. Theresa wasn't the only reason I left home.
3 Maybe you realize it by now, but I could never get away from
4 things at home."

5 So that was one of the reasons you left home?

6 A. I don't think that it was like get away with
7 any things that were bad. I can't -- I can't remember what
8 --

9 Q. Well, you had to leave because you couldn't
10 get away with things that were good?

11 A. I mean -- I don't know what I was talking
12 about. I can't remember this letter.

13 Q. Let's read further. "I had to leave. I stole
14 from you, I lied to you, I did everything in the world to
15 defy you, and I even blamed you. I blamed you for sending
16 me away. I blamed you for not allowing me to come home when
17 Oneida kicked me out. But it wasn't your fault. You guys
18 constantly dug me out of holes. Bought me an apartment,
19 sent me money every week, did everything you could possibly
20 to save your son. And I think that now that's how it always
21 has been. Ever since the day you adopted me. Save Randy
22 from destroying himself. Never too bright, a little too
23 slow, and I changed for the worse. I met Theresa, fell into
24 a different group, and thought she had so much like I --
25 thought she was so much like I. I was just trying to find

1 my place, trying to fit in.

2 "So we took drugs together. We started
3 smoking weed, and then acid, and that's when I started to
4 change my behavior, everything. But you never saw the
5 signs. It was the typical, I know my son's doing drugs.
6 But you didn't see. I was too conniving and I lied all the
7 time, to you, to my brothers.

8 "I got kicked out of school, went back, got
9 kicked out again. Yes, I stole a credit card. I needed the
10 money. I had to support my lifestyle, drugs, and sex. I
11 was caught up on Theresa. Theresa was never my first,
12 though, and wasn't my last, either. I was getting to the
13 point that nothing mattered. I struggled with myself and I
14 ended up eventually losing Theresa because of my lies were
15 getting out of control.

16 "I was on my own again. I screwed over
17 friends, stole from the neighbors in Louisville, and came
18 back to Lexington, used another friend, ended up in a
19 shelter. I played on several people's emotions who worked
20 there, making up stories as to why I had no home. It
21 worked. I was offered a place to stay. I got a job. I got
22 a GED. I really did.

23 "I tried to change around, but my new hobbies
24 had a hold of me. I felt like you hated me, so I made up
25 the story about the Air Force to see if your thoughts would

1 change about me. They did. You sounded proud of me, but
2 the fantasy could only last for so long. Ronny got tired of
3 supporting me and put me back in the shelter. I had to come
4 back to Texas, start over, and make things right.

5 "So I charmed my way into getting a ride back
6 to Arlington and that's when you cut me off completely. I
7 could only blame myself. Once again, I'm back in a shelter.
8 So I go back to my old ways, playing on people, using drugs,
9 happy, happy, happy.

10 I even almost played on the Sternblitz family,
11 but couldn't accept anything from them. I realize I could
12 never hopefully change, but then it all happened. I met the
13 Plummers. Moved in with them, smoked weed, dropped acid,
14 met a girl named Charity, had sex with her, and, well, the
15 rest is a nightmare.

16 "I'm not here telling you that I'm innocent.
17 Believe what you want to. If only you could look in my
18 eyes. That's so much to tell you. But I can't because on
19 paper it all sounds like a fairy tale. It does. I'm sorry
20 it all happened this way. I'm sorry I tore us apart. I can
21 only blame myself. But you have to believe me when I tell
22 you I'm sorry.

23 "I'm two and a half years clean and I'm not
24 the Randy I once was when this all happened. I miss my mom
25 and I miss my dad and hopefully someday I will get them

1 back."

2 So you did have a long history of lying and
3 getting into trouble and they would always help you out?

4 A. Yes, during those years, yes, sir.

5 Q. So it wasn't as if they shoved you off,
6 shipped you off to Kentucky because you were a problem?

7 A. No, sir.

8 Q. They tried to do that because they wanted to
9 help you?

10 A. Because I had bad grades.

11 Q. I'm sorry?

12 A. I had bad grades, yes, sir.

13 Q. There were a lot of kids up at that school
14 that had similar problems growing up; is that right?

15 A. Yes.

16 Q. And that school gave you special attention?

17 A. Yes.

18 Q. Your grades improved?

19 A. Yes, sir.

20 Q. Now, you pled guilty what time?

21 A. I believe it was around May.

22 Q. Okay. When you were first confronted with
23 this offense, you denied it, right?

24 A. The first time, yes, sir.

25 Q. And then you pled guilty?

1 A. Yes, sir.

2 Q. When you pled guilty, you were pleading guilty
3 because you were actually guilty of the offense, were you
4 not?

5 A. Yes, sir.

6 Q. Okay. Let me show you your letter which has
7 been marked April 11, '97. Let me show you what has been
8 marked State Exhibit 939. Do you recognize this letter to
9 your brother Wesley?

10 A. Yes, sir.

11 Q. Okay.

12 MR. SHOOK: Your Honor, at this time we
13 offer State Exhibit 939.

14 MR. SHOOK: No objection.

15 THE COURT: No. 939 is admitted.

16 Q. (By Mr.Shook) On the back page you write, "No
17 matter what --" Well, "I've lied to you about a lot of
18 things, but my lying days are over." Do you remember
19 writing that?

20 A. Yes, sir.

21 Q. Were your lying days over at that point in
22 time?

23 A. No, sir.

24 Q. You continued to lie after that?

25 A. Yes, sir.

1 Q. In fact, you told your brother Wesley that you
2 -- that you did not commit this offense, didn't you?

3 A. Yes, sir.

4 Q. And you lied to him about that repeatedly,
5 didn't you?

6 A. You referring to the injury of a child?

7 Q. Yes.

8 A. Yes, sir.

9 Q. Let me show you what has been marked as State
10 Exhibit 940. Do you recognize that as a letter to your
11 brother?

12 A. Yes, sir.

13 MR. SHOOK: Your Honor, at this time
14 we'll offer State Exhibit 940.

15 MR. KING: Can we tie that down as to
16 time and space, please?

17 MR. SHOOK: Dated 1-26-97.

18 MR. KING: No objection, Your Honor.

19 THE COURT: State's 940 shall be
20 admitted.

21 Q. (By Mr. Shook) This is when you are in the
22 Tarrant County Jail. You still haven't pled guilty; is that
23 right?

24 A. Yes, sir.

25 Q. This is after, though, you had confessed to

1 the police of your crime?

2 A. Yes, sir.

3 Q. "Right now I'm at the point in which I don't
4 care what anybody thinks, how they view me. I know who I
5 am. I know what kind of person I am. You, mom or dad,
6 knows what really went on. You guys don't know if I did it
7 or not. You have heard what the police want you to hear.
8 I'm not saying I didn't do it, because in actuality I did
9 hit the kid. Hit and that's it." What's that?

10 A. Um, "hit like in spank."

11 Q. "Hit like in spank. You're bad. But that's
12 bullshit that I beat the hell out of it." Now, were you
13 lying then?

14 A. Yes, sir, I was lying.

15 Q. Okay. Because you did, as you say, beat the
16 hell out of "it"?

17 A. Yes, sir, but --

18 Q. And that's what you referred to the boy as, an
19 "it"?

20 A. I didn't -- not sure my state of mind at that
21 time. I don't know how -- I don't think I was just
22 intentionally calling it an "it."

23 Q. You did beat the hell out of it. That's what
24 you write there, isn't it?

25 A. I did beat the hell out of the baby, yes, sir,

1 I did.

2 Q. But you used the word "it" at that point in
3 time, whatever your state of mind was?

4 A. Yes, sir.

5 Q. Okay. Now, you are a little mad in this
6 letter because you are not getting the right support from
7 these parents that have supported you in the past; is that
8 right?

9 A. Yes, sir.

10 Q Your parents, after they found out what you
11 had done to that child, they didn't want to talk to you
12 anymore?

13 A. No, sir.

14 Q. You couldn't blame them for that, could you?

15 A. No, sir.

16 Q. Especially because of all the things you had
17 done in your past?

18 A. I didn't think they were that bad to be pushed
19 out by people, parents.

20 Q. You felt they should be supporting you?

21 A. I thought they should at least -- I didn't
22 want anything but letters from them, to talk to them.

23 Q. You say here. "I got problems, but they're
24 only getting worse. What the fuck happened to support? All
25 I want to know is somebody loves me and that somebody cares

1 for me."

2 Did you -- a few more lines down you say,
3 "Honestly, do you think that I could have hurt a child so
4 badly?"

5 A. I was lying then.

6 Q. You were lying?

7 A. Yes, sir.

8 Q. Are you pretty good at conning people and
9 manipulating them when you have to?

10 A. I have been, yes, sir.

11 Q. How long have you been doing that?

12 A. I can't really recall.

13 Q. I mean, you can get people to believe your
14 lies pretty good. You have in the past, haven't you?

15 A. I have in the past, yes, sir.

16 Q. One of these letters refers to you talked or
17 manipulated someone into driving you all the way down from
18 Kentucky?

19 A. Yes, sir.

20 Q. You talk about your old ways of conning people
21 and playing people, that sort of thing?

22 A. Yes, sir.

23 Q. That is manipulating them, isn't it?

24 A. Yes, sir.

25 Q. Is this just a natural skill you acquired over

1 the years?

2 A. I don't consider it a skill.

3 Q. You were pretty good at it at one point in
4 time, weren't you?

5 A. I have manipulated people.

6 Q. Were you pretty good at it?

7 A. I don't know if I was good at it or not.

8 Q. Were you successful at it?

9 A. I've been successful, yes, sir.

10 Q. Do you think that you are still pretty good at
11 manipulating people?

12 A. Not really, sir.

13 Q. Now, let's talk about this crime that happened
14 to the child, Jared Smith. How old was the baby when you
15 assaulted him?

16 A. Sixteen months.

17 Q. And how long had you known him?

18 A. I think from about June.

19 Q. Where did you meet him?

20 A. I met him and Charity at the Night Shelter,
21 Arlington Night Shelter.

22 Q. When is it that you moved in with the
23 Plummers?

24 A. I want to say late July, September of '96 --
25 or, I mean, excuse me, summer of '96.

1 Q. Who was living with the Plummers first?
2 Charity or yourself?

3 A. I was.

4 Q. And how long had you lived there?

5 A. I can't really recall.

6 Q. A few days? A week? A month?

7 A. A few days to a week possibly.

8 Q. And then Charity Smith came to live with you?

9 A. Yes, sir.

10 Q. And were you working back then?

11 A. No, sir.

12 Q. Didn't have a job when you were at the
13 homeless shelter?

14 A. No, sir. Well, I actually worked at
15 Burlington Coat Factory setting up before it was actually
16 opened up, yes, sir.

17 Q. Did you ever work when you went to live with
18 the Plummers in Ft. Worth?

19 A. No, sir.

20 Q. Were you looking for a job?

21 A. No, sir.

22 Q. So you were just hanging out at the Plummers?

23 A. Yes, sir.

24 Q. Did you ever work for the Plummers?

25 A. I watched their kids.

1 Q. Was that the reason they were letting you stay
2 there?

3 A. Yes, sir.

4 Q. That was their arrangement with you?

5 A. Yes, sir.

6 Q. Was to watch their children?

7 A. Yes, sir.

8 Q. Now -- and then Charity, how long was she
9 living there before you assaulted her child?

10 A. Maybe three, four weeks. I can't really
11 recall the time period.

12 Q. How many times had you assaulted him?

13 A. Just that once.

14 Q. Tell us how that happened. Was it during the
15 day or during the night?

16 A. It was at night.

17 Q. And was everyone at the apartment?

18 A. Um, to the best that I remember there were
19 just the two children. And I think it was Kyle -- I can't
20 remember the girl's name. I don't recall anybody else being
21 in there.

22 Q. So none of the adults were home?

23 A. No, sir.

24 Q. Where were they?

25 A. I believe they were out.

1 Q. What were they out doing?

2 A. I think they went to a bar or some place.

3 Q. How was it that you stayed behind?

4 A. I was watching the children.

5 Q. Okay. Did you volunteer to do that?

6 A. Yes, sir.

7 Q. Why did you volunteer to do that?

8 A. I felt like I was kind of pressured into it.

9 Q. Okay. Tell us how that happened.

10 A. On what I remember it was Charity wanted to go
11 out and Charity and Todd had a thing going on at the time
12 and Ramie didn't really trust them. She didn't suspect
13 anything at the time, but she wasn't going to let them go
14 out together. And Charity and I, we had already been
15 starting to argue and everything and not really been getting
16 along at the time anyways, and, you know, I was upset at
17 that and they ended up leaving and I said, "Okay, I'll watch
18 the kids."

19 Q. So you agreed to watch the children?

20 A. Yes, sir.

21 Q. But you were mad?

22 A. Yes, sir, I was upset.

23 Q. Were you on drugs?

24 A. I was on LSD at the time, yes, sir.

25 Q. Okay. And do you think that was a good idea

1 to watch the children when you are on drugs?

2 A. No.

3 Q. And then what happened later that night to
4 cause you to assault Jared?

5 A. Jared was crying.

6 Q. How long did he cry?

7 A. He had been crying for weeks.

8 Q. So what did you do to him when he cried?

9 A. I first tried to calm him down.

10 Q. Then what happened?

11 A. Then I hit him.

12 Q. How did you hit him?

13 A. I can't remember the first hit, but I pushed
14 him and hit him in the head and --

15 Q. What did you hit him with?

16 A. My hands.

17 Q. Open hand or fist?

18 A. Um, I don't think it was -- I can't remember
19 if it was -- I think probably a combination of both.

20 Q. Where did you hit him?

21 A. I hit him in the head, side of the face.

22 Q. How hard did you hit him?

23 A. Fairly hard for my size.

24 Q. What did he do when you started hitting him?

25 A. He was crying for his mom.

1 Q. Started calling for his mother?

2 A. Yes, sir.

3 Q. Did he sound like he was in pain?

4 A. Yes, sir.

5 Q. Sound scared?

6 A. Yes, sir.

7 Q. Did you keep hitting him?

8 A. Yes, sir.

9 Q. What did you do to him after you hit him with
10 your fist?

11 A. I remember pushing him down and kicking him
12 and pushing him again, pushed him against some kind of chest
13 or something.

14 Q. And he's 16 months old?

15 A. Yes, sir.

16 Q. He didn't have much of a chance against you,
17 did he?

18 A. No, sir.

19 Q. Did he try to get away from you?

20 A. I can't remember.

21 Q. Do you remember him trying to hop away from
22 you?

23 A. I can't remember.

24 Q. When you kicked him, where did you kick him?

25 A. I can't remember where I kicked him at.

1 Q. Did you kick him hard?

2 A. Yes, sir.

3 Q. When you pushed him down, how hard did you
4 push him down?

5 A. I can't remember.

6 Q. You knew you had hurt him pretty badly, didn't
7 you?

8 A. Yes, sir.

9 Q. Did you call an ambulance?

10 A. No, sir.

11 Q. Why not?

12 A. Because at that time he stopped crying.

13 Q. Could you tell the next day that he was hurt?

14 A. Yes, he was limping.

15 Q. He was too young to tell his mother what you
16 had done to him, wasn't he?

17 A. Yes, sir.

18 Q. Can you tell he was in pain?

19 A. Yes, sir.

20 Q. Did you say, we need to take him to the
21 doctor. I hurt him?

22 A. No. But I told them -- I told Todd that he
23 needed to get looked at.

24 Q. Did they take him to the hospital then?

25 A. Yes, sir.

1 Q. Did they find out what was wrong with him?

2 A. Yes, sir.

3 Q. Let me show you first a two-page document that
4 has been marked State Exhibit 948. Do you recognize that as
5 being the typed confession you signed in this case of the
6 injury to a child?

7 A. Yes, sir, I do.

8 Q. And State Exhibit 949, is that a copy of the
9 first affidavit that you gave the police?

10 A. Yes, sir.

11 MR. SHOOK: Your Honor, at this time
12 we'll offer State Exhibit 948 and 949.

13 MR. KING: No objection.

14 THE COURT: Nos. 948 and 949 shall be
15 admitted.

16 MR. SHOOK: May I publish these to the
17 jury?

18 THE COURT: You may.

19 Q. (By Mr. Shook) State Exhibit 949, I'll read
20 at this time. It's the first affidavit which was given at
21 what time, Mr. Halprin?

22 A. It was sometime at night, I believe, I'm not
23 sure of the exact day or time.

24 Q. This was after Jared with taken to the
25 hospital?

1 A. The hospital, yes, sir.

2 Q. Was this the starting time? Says 8:29:96?

3 A. Yes, sir.

4 Q. And was this down at the police station?

5 A. Yes, sir.

6 Q. All right. "My name is Randy Ethan Halprin.

7 I am 18 years of age. My date of birth is 9-13-77. I am
8 staying at 3000 Las Vegas Trail Apartments 1233, Ft. Worth,
9 Texas, 76116. My telephone number is 817/560-3192. I have
10 completed 11 years of schooling. I can read and write the
11 English language.

12 "I got to know Charity Smith about six and a
13 half weeks ago at the night shelter while we were both
14 staying there. I also got to know Todd and Ramie Plummer at
15 the night shelter. They moved out of the shelter about a
16 month ago. I moved out with them about a week and a half
17 ago.

18 "While at the shelter, I kept Charity's son,
19 Jared, about four hours while Charity went to the hospital
20 because she had chickenpox. After the Plummers moved into
21 their own apartment, I kept in touch by telephone. About a
22 week and a half ago they offered to let me move in, so I
23 went to stay with them. I kept Jared and the Plummer's two
24 kids on Tuesday for about three and a half hours. This is
25 the only time I have kept any of the kids myself.

1 The first thing I noticed about Jared was his
2 leg that was bruised on Thursday. Charity noticed it first.
3 Jared was limping. On the weekend Jared woke up and there
4 was blood coming out of his ear. Randy said it might have
5 been an ear infection and they took him to the hospital.
6 They said it was an ear infection and prescribed some
7 Amoxicillin.

8 "About a day later some bruises started
9 showing up by his ear and up to his forehead. After that I
10 really didn't notice anything. It was either Monday or
11 Tuesday his eye started getting red and she said it was
12 pinkeye because Tom had pinkeye and I was getting a red eye.
13 They just kind of left it at that. And then today I noticed
14 the blood vessels popped in his eye.

15 Todd told her she needed to take him to the
16 hospital and she said she didn't want to. She said that
17 Cooks Hospital was going to call CPS because they thought
18 she hit her kid. She said this several times. Then she
19 just basically -- Ramie said she was taking him and so she
20 put some clothes on and they left.

21 "I have seen Charity jerk Jared up by the
22 forearm near the wrist and left him up off the floor several
23 times while I've been staying with Todd and Ramie. Charity
24 yells at him a lot. Sometimes Charity will take Jared and
25 put him in a room and close the door. I've seen her do that

1 a lot, nearly every day. She will lay him down or sometimes
2 he will crawl to the door. He will just sit there and
3 whimper. I've never hit Jared. "

4 Of course, you were lying when you said you
5 had never hit Jared?

6 A. I was lying, yes, sir.

7 Q. Looks like you were trying to kind of shift
8 the focus on Charity. Were you trying to do that?

9 A. Yes, sir.

10 Q. They were looking at her, naturally because
11 she was the mother; is that right?

12 A. Yes, sir.

13 Q. You didn't turn yourself in, did you?

14 A. No, sir.

15 Q. Okay. Now, your confession actually occurred
16 on September 4th of 1996; is that right?

17 A. Yes, sir.

18 Q. And that was given at the Ft. Worth Police
19 Department?

20 A. Yes, sir.

21 Q. They didn't threaten you or coerce you in any
22 way, did they?

23 A. No, sir.

24 Q. Do you remember the lady that took the
25 confession?

1 A. No, not really.

2 Q. Sergeant --

3 A. It was done on a computer.

4 Q. You read it over and signed it?

5 A. I didn't -- I signed it the first time, but
6 then they called me back because I made a change and I
7 initialled it.

8 Q. And that's what we see there, your initials
9 next to the change?

10 A. Yes, sir.

11 Q. That was on the date when this happened?

12 A. I believe so, yes, sir.

13 Q. State Exhibit 948. "Starting time September
14 4, 1996, 17:11 hours. My name is Randy Ethan Halprin. I'm
15 18 years old and my date of birth is 9-13-77. I live at
16 3000 Las Vegas Trail, Apartment 1233 Ft. Worth, Texas, and
17 my telephone number is 560-3192. I have completed 11 and a
18 half years of schooling and I can read and write the English
19 language.

20 "About 7 weeks ago I was staying at the
21 Arlington Night Shelter and I got to know Charity Smith and
22 her son Jared, who is 16 months, and Todd and Ramie Plummer
23 and their two kids.

24 About a month ago Todd and Ramie got their own
25 apartment and about two weeks I went to stay with them.

1 Charity and Jared moved in the day before I did. Jared
2 cried all the time.

3 "On Thursday, August 22, 1996, I was in the
4 back bedroom probably about 8:00 at night with Jared.
5 Everyone else in the living room. The TV was real loud and
6 they couldn't hear. Jared has been back there with me about
7 ten minutes and the door was closed.

8 "He had been crying the whole week and I had
9 been thinking the whole week that I was getting really
10 frustrated. Just everything crashed down and Jared was the
11 closest thing to take my anger out on.

12 "I told him to be quiet a couple of times. I
13 wanted to at first to hit him, but I didn't. But I just
14 crashed down, kind of flipped out. The first time I hit
15 Jared, he was sitting up on the bed and I hit him up side
16 the left side of his head, just a slap. I hit him about
17 five, six times. I didn't realize how hard I was hitting
18 him. He lay back down and I pulled him back up and he was
19 saying, 'mama'. And I said, 'Do you want to go to mama?'
20 And I put him down and then I kicked on his real hurt knee
21 and then he fell down.

22 "He got back up. I pushed him back down and
23 he hit the floor real hard. I pulled him back up real hard
24 by the wrist and I was telling him to stop crying. I didn't
25 realize that I was hurting him, but I think that I could

1 have broken his arms then. I could have hurt his other leg
2 when I was pushing him back down because he was trying to
3 stay off his hurt leg and he was twisting, trying to get
4 away and I was shoving him back down. I guess I hurt his eye
5 when I slapped him because I was slapping him hard enough to
6 bruise his face. I wasn't aiming for any particular place.
7 I was just slapping aim.

8 "I got scared and I put him down on the bed
9 and kept saying, 'I'm sorry. I'm sorry.' He fell asleep
10 and I just left the room. I never hit him after that. I
11 slapped him on the hand once before while in the shelter and
12 Charity saw it and asked me not to do it. I don't know
13 anything about the injuries to Jared's mouth. I just
14 assumed it was from him biting his tongue.

15 "The next morning when the blood started
16 coming out, I got really scared about everything I did to
17 him the night before. I made -- I didn't say anything first
18 about the injuries. I made sure someone else commented
19 first before I said anything.

20 "I lied to the police when I gave my first
21 statement because I was scared and didn't want to believe
22 that I did that."

23 So according to the statement, you actually --
24 it was Charity Smith that lived there first?

25 A. Um, to my knowledge -- I know what I said in

1 there, but from what I remember, it was the other way
2 around. I could be wrong.

3 Q. I don't see any mention of being on acid or
4 drugs of any sort in this statement.

5 A. No, sir, but I told them about it.

6 Q. You told the police that?

7 A. Yes, sir.

8 Q. And they left it out?

9 A. I thought it was in the statement.

10 Q. Did you read the statement over?

11 A. Not when I reinitialed it, no, sir.

12 Q. But there's no mention of drugs in here at
13 all?

14 A. No, sir.

15 Q. Now, there is a mention of -- was his ear
16 bleeding?

17 A. Yes, sir.

18 Q. Did you learn later that you had busted his
19 eardrum?

20 A. That's what they said I did, yes, sir.

21 Q. And blood was coming out? And then there's
22 one line in the last paragraph. "I don't know anything
23 about the injuries to Jared's mouth. I assumed it was from
24 him biting his tongue."

25 Do you know what they're talking about there?

1 A. Not really, no, sir.

2 Q. You don't remember the sergeant asking you
3 about the blisters on his tongue and mouth?

4 A. I remember him asking about some injuries to
5 the mouth.

6 Q. They were described as cigarette burns,
7 weren't they?

8 A. I'm not a smoker.

9 Q. Well, there are cigarettes in that house,
10 weren't there?

11 A. I didn't do that.

12 Q. The Plummers smoked, didn't they?

13 A. I didn't do that.

14 Q. You deny doing that?

15 A. I didn't do it.

16 Q. You didn't burn that child on the tongue?

17 A. No, sir, absolutely not.

18 Q. You did hit him beside the head, kick him in
19 the legs. Did you just do this once or was there more than
20 one occasion?

21 A. That night, I can't -- obviously there was a
22 series of blows, but that's -- that was it.

23 Q. Let me show you what has been marked as State
24 Exhibit 941, 942, 943, 944, 945, and 946, 947. Do you
25 recognize those photos of Jared smith and his injuries?

1 A. Yes, sir.

2 MR. SHOOK: Your Honor, at this time
3 we'll offer State Exhibits 941 through 947.

4 MR. KING: No objection, Your Honor.

5 THE COURT: Nos. 941 through 947 shall be
6 admitted.

7 Q. (By Mr. Shook) We know at least from this
8 case, you are capable of great violence, don't we, Mr.
9 Halprin?

10 A. One incident.

11 Q. I'm sorry?

12 A. One incident, yes, sir.

13 Q. We see here this is Jared smith; is that
14 right?

15 A. Yes, sir.

16 Q. Bruises here to his forehead, around his
17 mouth, you cause those?

18 A. Yes, sir.

19 Q. State Exhibit 242 --

20 THE COURT: No. 942.

21 Q. (By Mr. Shook) No. 942, the forehead injury,
22 you caused that?

23 A. Yes, sir.

24 Q. See the blood in the left eye? Is that from
25 you hitting him?

1 A. Yes, sir.

2 Q. Let me show you State Exhibit 943. See that
3 large bruise by his ear? Is that --

4 A. Yes, sir.

5 Q. -- where you slapped him beside his head?

6 A. I remember slapping him on the side of the
7 head. But I also remember him being treated for ruptured
8 eardrum before that incident happened. So I'm not sure if I
9 caused that or not.

10 Q. Did you see blood coming out of his ear the
11 day after you hit him?

12 A. I did notice some blood, yes, sir.

13 Q. Let me show you State Exhibit 944. This
14 broken arm here that we see in a cast, did you cause that
15 injury?

16 A. Yes, sir.

17 Q. Was that when you were kicking him or hitting
18 him?

19 A. I don't recall.

20 Q. See how his legs are restrained here? When
21 did you break his legs?

22 A. I don't recall.

23 Q. How long did this assault go on?

24 A. A couple of minutes.

25 Q. Do you remember if you -- that bone was broken

1 in the middle of the forearm?

2 A. I'm not sure.

3 Q. Let me show you State Exhibit 946. See the
4 large bruise to the chin? Do you remember causing that?

5 A. I know I hit him, so if I hit him, I could
6 have caused that, yes.

7 Q. Could Jared walk at this time?

8 A. He was limping.

9 Q. Let me show you State Exhibit 947. See those
10 blisters to his tongue?

11 A. I see them, but I did not cause those.

12 Q. You are denying that?

13 A. I'm denying that.

14 Q. For someone that would actually burn a child's
15 tongue like that, they would have to think about doing that
16 type of offense, wouldn't they?

17 A. Excuse me?

18 Q. They would have to think about that. That
19 takes some planning?

20 A. Obviously.

21 Q. Now, you talk about, Mr. Halprin, that you in
22 the past have been good at manipulating people; is that
23 right?

24 A. Yes, sir.

25 Q. You have been successful at it?

1 A. Yes, sir.

2 Q. I want to show you State Exhibit 950, a letter
3 you sent to a lady named Debbie Toner on 3-6-02.

4 A. Yes, sir.

5 Q. Do you recall writing a letter to her?

6 A. Yes, sir.

7 Q. Okay.

8 MR. SHOOK: Your Honor, at this time we
9 offer State Exhibit 950.

10 MR. KING: No objection.

11 THE COURT: No. 950 shall be admitted.

12 Q. (By Mr. Shook) I noticed on the first day of
13 trial you were wearing glasses?

14 A. Yes, sir.

15 Q. And during jury selection you were wearing
16 glasses some days?

17 A. Off and on, yes, sir.

18 Q. And do you wear glasses? You need glasses to
19 read or see?

20 A. Yes, sir.

21 Q. How long have you worn glasses?

22 A. I have worn -- I've been prescribed glasses
23 before when I was young, but mainly just to read or look at
24 something.

25 Q. So how long have you been wearing glasses?

1 A. Off and on.

2 Q. All through your school years?

3 A. Yeah, I did -- I was prescribed when I was
4 younger, yes, sir.

5 Q. Because I was looking at your pen record.

6 A. No, I had no records of wearing glasses in
7 prison.

8 Q. I know. They show you to have 20/20 vision.

9 A. Yes, sir. But I'm sure if you had me tested
10 now -- I'm sure if you had me tested now, I would not have
11 perfect eyesight.

12 Q. Well, let me show you your records. First
13 time tested --

14 MR. KING: Excuse me. If Mr. Shook
15 intends to offer certified copies of prison records, we
16 would like to be notified that they are certified copies of
17 prison records. And if he intends to offer the prison
18 records in, we would like to have them marked as an exhibit
19 and I would like to see them.

20 MR. SHOOK: I would just like to ask him
21 if he remembers getting his eyes examined first.

22 MR. KING: That was the question he asked
23 him, but now he's showing him a document. If he's going to
24 show him a document, we would like it to be marked as an
25 exhibit and ask if it can be identified as part of the

1 prison records. We would like to have Mr. Shook mark it so
2 we can know what part of the prison records, if any,
3 Mr. Shook thinks are relevant in this trial.

4 THE COURT: Mr. King, can you please mark
5 exhibits.

6 MR. KING: I will for the moment.

7 Q. (By Mr. Shook) Do you remember checking your
8 eyes in prison?

9 A. I don't remember an exact eye exam.

10 Q. You don't remember ever getting an eye exam?

11 A. I'm not saying I haven'. But I just don't
12 remember it.

13 Q. So you have forgotten it if you had an eye
14 exam?

15 A. I don't remember.

16 Q. You just have no memory?

17 A. I don't recall --

18 Q. On June 2, 1997, you wouldn't have been
19 checked for eyes and shown to have 20/20 vision?

20 A. I don't recall.

21 Q. You don't recall that?

22 A. No, sir.

23 Q. Okay. Let me ask you this. On June 1st of
24 1999, do you recall getting an eye exam and having 20/20
25 vision?

1 A. I don't recall.

2 Q. Could that have happened?

3 A. It could have happened, yes, sir.

4 Q. But you are saying that you need glasses now?

5 A. I'm just saying that sometimes I need them,
6 yes, sir.

7 Q. When is it that you need them?

8 A. Whenever I need them, whenever I feel like I
9 need to read something, if things are getting blurred. It's
10 my right eye that is actually --

11 Q. Let me show you this. You wrote Ms. Toner, "I
12 want the potential jurors to see me in different outfits.
13 It shows a personality other than wearing the same suit over
14 and over. I was thinking about some Dockers, khakis, and
15 Navy blue pants with a couple of different dress shirts,
16 then in my trial, wearing a few different suits, ties, and
17 shirts. I got the idea from the O. J. trial. It's crazy, I
18 know, but the lawyers did different dress schemes to
19 distract the jurors. The shit works."

20 Is that what your -- then you say, "Like one
21 day I'll wear glasses and one day I won't. One day I'll
22 have a different tie on or a suit."

23 A. I did say that, yes, sir.

24 Q. Is that what you are attempting to do with
25 wearing glasses, things like that? You wanted to distract

1 the jurors?

2 A. Not really, no, sir. I don't think that they
3 are paying attention to me. I think that they are paying
4 attention to the evidence.

5 Q. Then why did you write this to Ms. Toner about
6 --

7 A. I just wanted to show --

8 Q. "It's crazy, I know, but the lawyers did it,
9 different dress schemes, to distract the jurors. The shit
10 works."

11 A. Who knows what I was thinking at the time.

12 Q. Now, we talked about your lying. And I asked
13 if you continued to lie you were a little vague on that.
14 You wanted me to give you a specific reference, I think?

15 A. Well, I mean, I know that I've lied. I'm not
16 denying that I haven't lied. But --

17 Q. You have a friend named Jennifer, I think,
18 that has been in the courtroom the past couple of days,
19 Jennifer Roe?

20 A. Jennifer Roe and Saline. If you ask them,
21 they both know about each other.

22 Q. Okay. Well, Saline is here, but Jennifer you
23 met -- when did you meet her?

24 A. Back at the beginning of March when I came to
25 Dallas County.

1 Q. After you were here in the Dallas County Jail?

2 A. Yes.

3 Q. Does she live here in Dallas County?

4 A. She lives in Duncanville, yes, sir.

5 Q. Okay. But you didn't know her before then?

6 A. No, sir.

7 Q. She -- how did you meet her?

8 A. Through the mail.

9 Q. Did y'all develop a relationship after that?

10 A. Yes, sir.

11 Q. What type of relationship?

12 A. A love relationship, whatever you want to call
13 it.

14 Q. Does she have some children?

15 A. Yes.

16 Q. How old are they?

17 A. She's got -- she just had a kid. He's about a
18 year old now and she also has Austin.

19 Q. Austin? Okay. And Jennifer and Saline, they
20 know about each other?

21 A. Yes, they know.

22 Q. Let me show you a letter that has been marked
23 State Exhibit 952 to a woman named Dawn Amos, written on
24 August 15, 2001. Do you remember that --

25 A. Yes, sir.

1 Q. -- writing to Dawn Amos?

2 MR. SHOOK: Your Honor, at this time we
3 offer State Exhibit 952.

4 MR. KING: No objection.

5 THE COURT: No. 952 shall be admitted.

6 Q. (By Mr. Shook) Ms. Amos is a woman that --
7 she's in a Colorado prison?

8 A. Yes, sir.

9 Q. You began writing her, too?

10 A. Yes, she was pen pals.

11 Q. Yes. Do you remember telling her in this
12 letter explaining to her who Jennifer was?

13 A. Yes.

14 Q. And you lied to her, didn't you?

15 A. Yes.

16 Q. You told her that Jennifer was actually a
17 school friend of yours --

18 A. From Kentucky.

19 Q. -- from Kentucky?

20 A. Yes.

21 Q. That y'all had slept together?

22 A. Yes, sir.

23 Q. And then you took off to Texas?

24 A. Yes, sir.

25 Q. Came back, went to prison?

1 A. Yes, sir.

2 Q. And lo and behold, she showed up in Dallas?

3 A. Yes, sir.

4 Q. And came to see you at the jail?

5 A. Yes, sir.

6 Q. And turns out she had been impregnated by you
7 several years before?

8 A. Yes, sir.

9 Q. And that your son was Austin?

10 A. Yes, sir.

11 Q. And you were -- why were you -- that's a big
12 lie, right?

13 A. Yes, sir.

14 Q. Why were you telling this woman up in Colorado
15 this lie?

16 A. I don't know.

17 Q. You don't know?

18 A. No.

19 Q. That lying just come back naturally to you?

20 A. Not naturally, it just --

21 Q. Do you remember a reason to lie to her about
22 that?

23 A. No.

24 Q. Pretty insignificant, isn't it?

25 A. Yes, sir.

1 Q. So if you would lie about something that
2 insignificant, don't you think you might lie about something
3 real significant like about what happened behind that
4 Oshman's?

5 A. Sir. I did not shoot the officer. I did not
6 pull a gun and I think the evidence shows that, sir.

7 Q. But you lied about something that
8 insignificant?

9 A. Yes, sir.

10 Q. Big, elaborate story. Let me show you what
11 has been marked as State Exhibit 953, another letter to Dawn
12 Amos, dated April 8, 2001. Do you recognize that as a
13 letter you sent to her?

14 A. Yes, sir.

15 MR. SHOOK: Your Honor, at this time we
16 will offer State Exhibit 953.

17 MR. KING: No objection.

18 THE COURT: No. 953 shall be admitted.

19 Q. (By Mr. Shook) Now, like we talked before,
20 you are good at manipulating people or been successful in
21 the past; is that right?

22 A. Yes, sir.

23 Q. Okay. Do you remember writing this? "If I
24 get a chance to tell my side of the story, that will be
25 great, because I know that I can reach a couple of jurors.

1 It's just something I know."

2 A. I'm telling the truth.

3 Q. You think that you can reach one or two?

4 A. Yes, sir.

5 Q. Wouldn't be because you have been pretty
6 skilled at manipulating people in the past?

7 A. No, sir.

8 Q. Telling lies?

9 A. No, sir.

10 Q. Getting people to feel sorry for you?

11 A. No, sir.

12 Q. Because that's one of the things that you have
13 done in the past, isn't it?

14 A. Yes, sir.

15 Q. You talked about in your letter to your
16 parents, a big lie to Theresa. That was one of your
17 girlfriends back in Kentucky?

18 A. Yes, sir.

19 Q. Do you remember convincing her and others that
20 you had cancer?

21 A. Yes, sir.

22 Q. They believed you?

23 A. Yes, sir.

24 Q. Her mother even believed you?

25 A. Yes, sir.

1 Q. Of course, you didn't have cancer?

2 A. No, sir.

3 Q. And then the -- right when you were finishing
4 your testimony, Mr. King talked about your theft case in
5 Kentucky. That's when you stole from some former teachers
6 of yours?

7 A. Yes, sir.

8 Q. You talked your way into their home, didn't
9 you?

10 A. Yes, sir, I didn't talk, actually. I was --
11 we were actually friends.

12 Q. Made them feel sorry for you?

13 A. You talking about the teachers in Kentucky,
14 right?

15 Q. The Kernels?

16 A. The Kernels, yes, sir.

17 Q. They let you come stay in their home?

18 A. Yes, sir, they did.

19 Q. And while you were there you stole from them?

20 A. I stole their credit card.

21 Q. And even actually had them drive you to pick
22 up some money you had ordered off of it; is that right?

23 A. Yes, they actually dropped me off in
24 Louisville where I had the money wired, yes, sir.

25 Q. So you deceived them?

1 A. Yes, sir.

2 Q. Now, this offense that you went to prison for,
3 you got 30 years. How long had you been in prison before
4 you met George Rivas?

5 A. Um, at that time possibly three and a half,
6 maybe four.

7 Q. Okay. You already knew your way around the
8 prison system pretty well, didn't you?

9 A. Yes, sir.

10 Q. George Rivas was not your mentor in prison,
11 was he?

12 A. Um, not to that time, no, sir. I was pretty
13 much independent or by myself.

14 Q. You told the jury on direct that you never had
15 any serious incidents in prison?

16 A. No, sir.

17 Q. Weren't violent?

18 A. No, sir.

19 Q. Are you telling the jury that you never had
20 any fights?

21 A. I'm not saying I've never been in a fight.
22 Prison is prison. You are going to fight in prison.

23 Q. You have been in several fights in prison,
24 haven't you?

25 A. I've been in a couple, yes.

1 Q. You never got in trouble for that, did you?

2 A. No, sir.

3 Q. Because the guards don't see a lot that goes
4 on down there?

5 A. Yes, sir.

6 Q. You fought to get respect; is that right?

7 A. I fought so nobody would run me over, yes,
8 sir.

9 Q. Do you remember starting a riot in closed
10 custody?

11 A. No, sir.

12 Q. Let me show you a letter which has been marked
13 State Exhibit 954?

14 A. If it's a letter to Dawn, then it's a lie. I
15 was trying to impress her.

16 Q. It's a letter to Dawn.

17 A. Yes, sir.

18 Q. And this is the letter we're talking about,
19 April 4, 2001?

20 A. Yes, sir.

21 MR. SHOOK: Offer State Exhibit 954.

22 MR. KING: No objection.

23 THE COURT: No. 954 shall be admitted.

24 Q. (By Mr. Shook) You talk about, I think,
25 getting checked. And then you said, "Though I did get into

1 a few hairy situations, I started that riot in close custody
2 kitchen. I thought, oh, shit, I'm dead, you know. I threw
3 a pitcher of juice on that Mexican."

4 Were you telling the truth or lying about
5 that?

6 A. I was lying.

7 Q. So that was a lie?

8 A. Yes, sir.

9 Q. You also talked about in this letter that you
10 were -- had dealings with the leader of the Arian
11 Brotherhood. Do you remember that?

12 A. I don't recall it, but it's probably a lie.

13 Q. Calling him Batman?

14 A. Batman, yes, sir.

15 Q. Y'all had this little deal going where you
16 would sell cookies. He was a baker?

17 A. Yes, sir.

18 Q. Did you make up a lie about him checking with
19 you if there was any trouble between the Arian gangs?

20 A. You mean as far as what he had told me, as far
21 as if I had any trouble, we were cool, because I'm jewish,
22 you know, I could go to him and he would take care of me.

23 Q. And he knew that you were with the whites, if
24 anything went down?

25 A. Yes, sir.

1 Q. You told him that?

2 A. Yes, sir. That's to survive, sir.

3 Q. So that wasn't a lie?

4 A. No, sir. That part was not, no, sir.

5 Q. Let's talk about this escape for a minute.

6 A. Yes, sir.

7 Q. You said that George Rivas approached you?

8 A. Yes, sir.

9 Q. And y'all -- or he did most of the planning?

10 A. Yes, sir.

11 Q. Did you ever meet with him about the planning?

12 A. I talked to him, yes, sir.

13 Q. You knew what the plan was, didn't you?

14 A. Yes, sir.

15 Q. What was the plan? How was the escape going
16 to go down?

17 A. Um, you mean just as a whole?

18 Q. Right.

19 A. We were to take down the maintenance shop
20 supervisors, use a white truck to get out. George Rivas was
21 supposed to take over the tower and they were supposed to
22 come down, get in the truck, and we were supposed to leave.

23 Q. How were you going to take down the
24 supervisors?

25 A. By wrestling them to the ground.

1 Q. And now you had some weapons ready; is that
2 right?

3 A. Yes, sir. There were weapons, yes, sir.

4 Q. And who were you close friends with?

5 A. I was close to Joseph Garcia, Larry Harper,
6 and George Rivas.

7 Q. You knew Joseph Garcia was serving 50 years
8 for murder?

9 A. Yes, sir.

10 Q. And you knew George Rivas was serving, what
11 was it, 17 life sentences?

12 A. Yes, sir.

13 Q. For aggravated robbery?

14 A. Yes, sir.

15 Q. That means he pulled guns on people?

16 A. Yes, sir.

17 Q. And Larry Harper, that was your other one you
18 were close to?

19 A. Yes, sir.

20 Q. You worked with Garcia and Harper in the
21 warehouse; is that right?

22 A. Yes, sir.

23 Q. Larry Harper was actually serving three
24 sentences, 50 years, for rape.

25 A. I was not aware of that until we escaped.

1 Q. What did he tell you his charge was?

2 A. He had never even said anything and I never
3 asked him anything.

4 Q. How did you become aware of it?

5 A. Actually, watching "America's Most Wanted".

6 Q. Were you shocked by that?

7 A. I was surprised, yes.

8 Q. You liked to watch "America's Most Wanted,"
9 didn't you?

10 A. Only to see what was being said.

11 Q. You never missed an episode while you were
12 out, did you?

13 A. That's not true.

14 Q. So you were friends with Garcia. You knew he
15 was capable of murder?

16 A. Yes, sir, he was in for murder.

17 Q. You knew George Rivas was capable of
18 threatening people and committing crimes?

19 A. Yes, sir.

20 Q. Did you think anyone might get hurt in this
21 escape?

22 A. No, sir.

23 Q. Why not?

24 A. Because the whole idea that it was designed
25 for was so nobody would get hurt.

1 Q. You had weapons there; is that right?

2 A. For intimidation, yes, sir.

3 Q. Shanks?

4 A. Yes, sir.

5 Q. Did they kill someone?

6 A. I'm not sure.

7 Q. In actuality when this escape started, you --
8 the first person you took down was the assistant supervisor
9 Pat Moczygemba, wasn't it?

10 A. I didn't take him down, but, yes, sir, he was
11 the first person taken down.

12 Q. You were there when it happened?

13 A. Yes, sir.

14 Q. In fact, you were the ones that you and Rivas
15 coaxed him into the back of the warehouse; is that right?

16 A. Rivas did coax him into the warehouse, yes,
17 sir.

18 Q. And you were there with the others?

19 A. I was on the lookout, yes, sir.

20 Q. Did you ask him or point and say, "Look at
21 this motor under a table --"

22 A. No, sir.

23 Q. Were you there when that happened?

24 A. I don't remember it like that. I remember
25 being -- I was in the warehouse room, if that's what you

1 mean. But --

2 Q. What happened to Mr. Moczygemba when he bent
3 over?

4 A. He was hit by Rivas.

5 Q. What did he hit him with?

6 A. With his hand.

7 Q. With his hand?

8 A. With his hand.

9 Q. Do you remember his ear getting ripped half
10 way off?

11 A. Yes, sir.

12 Q. He did that just with his hand?

13 A. He did not hit him -- he wasn't the one that
14 caused the injury to his ear.

15 Q. Who caused the injury to his ear?

16 A. Michael Rodriguez.

17 Q. That was Michael Rodriguez?

18 A. Yes, sir.

19 Q. So obviously some injuries did occur in this
20 escape?

21 A. Yes, sir.

22 Q. Do you remember them all fighting and hitting
23 him?

24 A. Um, Moczygemba?

25 Q. Yes.

1 A. I don't recall everything that happened to
2 him. I know that he was the biggest man and probably the
3 hardest and it took a couple of guys to get him down, but
4 that's --

5 Q. So he did get hit?

6 A. Yes, sir.

7 Q. Do you remember threats being made to his
8 life?

9 A. Not that I'm aware of, no, sir.

10 Q. Do you remember him being gagged?

11 A. Yes, sir.

12 Q. That was part of the plan?

13 A. I know that he was gagged, yes, sir.

14 Q. Y'all had gags, right?

15 A. Yes, sir.

16 Q. Y'all worked this out ahead of time?

17 A. Yes, sir.

18 Q. Now, you knew he was going to be on this
19 escape team, didn't you, ahead of time?

20 A. Yes, sir.

21 Q. Rivas talked to you, selected you, and you
22 agreed to go?

23 A. After consideration, yes, sir.

24 Q. No one forced you to, right?

25 A. No, sir.

1 Q. You said on direct that, you know, usually you
2 were pretty impulsive?

3 A. Yes, sir.

4 Q. When you have gotten in trouble in the past or
5 done things that have gotten you in trouble, it was because
6 you had been impulsive?

7 A. Yes.

8 Q. This time you decided not to be impulsive?

9 A. Yes, sir.

10 Q. Thought about it?

11 A. Yes, sir.

12 Q. And then decided to commit a crime?

13 A. Yes, sir.

14 Q. So whether its impulsive or think about it,
15 you were willing to commit these types of crimes?

16 A. Yes, I did.

17 Q. And you had -- the seven of you had to trust
18 each other, didn't you?

19 A. There was a level of trust, yes.

20 Q. I mean, how was this going to work if you
21 didn't trust each other?

22 A. I'm not really sure. All I can say is there
23 was trust to a degree.

24 Q. You had to work together as a team to get out
25 of the there, didn't you?

1 A. Yes, sir.

2 Q. And you worked very well as a team together,
3 didn't you?

4 A. Yes, sir.

5 Q. Y'all had planned a long time?

6 A. Yes, sir.

7 Q. And there was a lot of violence done to those
8 people?

9 A. From later reports that I heard, yes, sir.

10 Q. Do you believe those reports?

11 A. Um, obviously they are true.

12 Q. You were there?

13 A. Yes, sir.

14 Q. Do you remember a man by the name of Burgess?

15 A. Yes, sir.

16 Q. And a guard by the name of Marroquin?

17 A. Yes, sir.

18 Q. Mr. Camber?

19 A. Yes, sir.

20 MR. SHOOK: If I may have some people
21 step in the courtroom, I won't ask any questions while they
22 are in here.

23 [At this time four people stepped in
24 and back out of the courtroom.]

25 Q. (By Mr. Shook) Can you see these men?

1 A. Yes, sir.

2 Q. Do you remember Mr. Camber, the littlest guy,
3 there?

4 A. Was that Camber?

5 Q. Yes, sir.

6 A. I wasn't sure who was in the middle.

7 Q. Do you remember jumping him from behind and
8 smashing his head on the ground?

9 A. No, sir.

10 Q. You didn't do that?

11 A. No, sir.

12 Q. Do you remember Mr. Burgess, didn't you?

13 A. Yes, sir, I remember Burgess.

14 Q. Do you remember you and Rivas starting to
15 carry him to the electrical room --

16 A. No, sir, I did not do that.

17 Q. You didn't carry him back to the electrical
18 room?

19 A. No, sir.

20 Q. Do you remember saying to Mr. Burgess, "You
21 thought I liked you, Burgess, but I hate your fucking guts
22 --"

23 A. I never said that.

24 Q. "-- I would just as soon kill you right now"?

25 A. No, I did not ever say that to him.

1 Q. Do you say that to him?

2 A. In fact, when that was -- when that happened,
3 I was in the maintenance shop with Murphy watching Gilley --
4 I'm not sure of his first name. But I just remember his
5 last name, Gilley.

6 Q. Then what happened?

7 A. When they took Mr. Burgess down.

8 Q. Do you didn't make that threat to Mr. Burgess?

9 A. No, sir.

10 Q. Didn't happen at all?

11 A. No, sir.

12 Q. You weren't even there?

13 A. No, sir.

14 Q. Did you get along with Mr. Burgess?

15 A. Yes, sir.

16 Q. Never had a problem with him?

17 A. No, sir.

18 Q. Okay. How many people were finally taken in
19 that electrical room?

20 A. I would say 14.

21 Q. Were you ever in there when the shanks were
22 placed in their ears --

23 A. No, sir.

24 Q. -- and threatened to be shoved into their
25 brains?

1 A. No, sir.

2 Q. These people, no doubt, were very scared of
3 their lives?

4 A. Yes, sir.

5 Q. If they had kept resisting, would they have
6 been killed?

7 A. No, sir.

8 Q. Then would y'all have just given up?

9 A. Possibly.

10 Q. You would have?

11 A. I would have, yes, sir.

12 Q. You would have?

13 A. Yes, sir.

14 Q. But you were able to get out of prison?

15 A. Yes, sir.

16 Q. And when you were in prison, you knew what was
17 going to happen when you got out, didn't you?

18 A. I knew that there were planned robberies, yes,
19 sir.

20 Q. And you were going to be a part of that?

21 A. I didn't want to be a part, but I knew it was
22 going to happen and I tried to take the less, you know, I
23 didn't, you know, put up the biggest argument.

24 Q. So you knew while even when you were planning
25 this escape that you were going to be committing robberies

1 with these men?

2 A. Yes, sir. It had been discussed, yes, sir.

3 Q. You knew one of the men that would be
4 committing the robbery was Joseph Garcia, who was a
5 murderer?

6 A. Yes, sir.

7 Q. You knew Michael Rodriguez who would be
8 committing these crimes, you knew he was a murderer?

9 A. Yes, sir.

10 Q. Did he tell you about his crime?

11 A. Not in any great length, no. But I didn't
12 know all the details until the news report in San Antonio.

13 Q. Had his wife murdered?

14 A. Yes, sir.

15 Q. Was serving a life sentence?

16 A. Yes, sir.

17 Q. Of course, you knew he was violent from the
18 escape. You saw him hit Mr. Moczygemba real hard.

19 A. Yes, sir.

20 Q. What did he hit him with?

21 A. It was a spout of a pot or some kind of valve.

22 Q. Caused a lot of damage to his ear?

23 A. Yes, sir. I'm not aware of -- I don't know
24 what kind of damage it caused, but I remember seeing blood,
25 yes, sir.

1 Q. In fact, you were the one that wiped the blood
2 up, aren't you?

3 A. No, sir.

4 Q. So you knew Michael Rodriguez was a convicted
5 capital murderer. You knew he was capable of violence?

6 A. Yes, sir.

7 Q. You saw that firsthand?

8 A. Yes, sir.

9 Q. You knew Mr. Newbury had been to the pen,
10 what, three times?

11 A. I wasn't aware of how many times he had been
12 to prison.

13 Q. But he had been for aggravated robbery?

14 A. I knew he was in for robbery, but he said it
15 was -- I don't know, he said something. I can't remember
16 what he said, but --

17 Q. You knew he was pretty violent, though, prone
18 to violence, didn't you?

19 A. From the escape?

20 Q. His character.

21 A. His character?

22 Q. Just what you knew about him?

23 A. Not really, no, sir. He always showed a real
24 calm demeanor in prison.

25 Q. Did you know Mr. Murphy was a convicted

1 rapist?

2 A. I didn't know until after the escape.

3 Q. After y'all watched "America's Most Wanted"?

4 A. Yes, sir.

5 Q. But after that, after you got out, then you
6 knew what all their charges were?

7 A. Yes, sir.

8 Q. It didn't come as a big surprise that they
9 were all violent felons?

10 A. No, sir.

11 Q. So you know that they had been capable of
12 violence in the past?

13 A. Yes, sir.

14 Q. And they certainly were capable of violence
15 during that escape?

16 A. Yes, sir.

17 Q. And yet you agreed to go through these
18 robberies, agreed to do these robberies with them, anyway?

19 A. Yes, sir. I participated, yes, sir.

20 Q. You knew they were all taking loaded guns in?

21 A. Yes, sir.

22 Q. When you went with them to help rob the Radio
23 Shack, you wanted to hit that Radio Shack so you could get
24 that electronic equipment?

25 A. That's what Rivas wanted, yes, sir.

1 Q. Because you knew you were going to do bigger
2 robberies after that?

3 A. That is what Rivas had talked about,
4 discussed, yes, sir.

5 Q. And you were going to partake in that?

6 A. I was going to try not to.

7 That's why I didn't participate in the Auto
8 Western (sic).

9 Q. Mr. Halprin, I want to show you a document
10 marked State Exhibit 955. It's a letter. Do you recognize
11 the letter?

12 A. Can I have a chance to read it?

13 Q. Sure.

14 A. Yes, sir. This is the letter that I wrote
15 when I escaped from prison.

16 Q. Left it there at your bunk?

17 A. Yes, sir.

18 Q. Okay.

19 MR. SHOOK: State will offer State
20 Exhibit 955.

21 MR. KING: No objection.

22 THE COURT: No. 955 shall be admitted.

23 Q. (By Mr. Shook) This is a letter that you
24 wrote and left in your living space area?

25 A. It was in a book in the living space area,

1 yes, sir.

2 MR. SHOOK: May I publish to the jury?

3 THE COURT: You may.

4 Q. (By Mr. Shook) "Some might be confused as to
5 why I did this. Some might. May even shock --" I want to
6 make sure I get this word right.

7 A. Snap.

8 Q. "Snap. It may even snap into people's heads
9 as to why I hung out with the people I was around. This
10 wasn't the only reason why I did it to show that race nor
11 creed nor religion, people, or better yet, prisoners, could
12 unite in one common goal against the system. People always
13 bitched, complained, about what they would do. We got
14 together and acted upon our thoughts. I can say that God
15 blessed me well enough that I have had a comfortable prison
16 life. Content, yes. Happy, no. I could do my sentence,
17 but I refuse to live under the tyranny of the system and the
18 ignorance or the prisoners. I'm not talking of revolution,
19 but change for people to see eye to eye. Maybe it's a
20 dream, maybe I will fail. But my faith in God is stronger
21 and I have no doubt that we will succeed.

22 "Remember the famous words, 'one nation under
23 God.' We are people, humans, society. Society sees us
24 otherwise. Let us show them different. Believe me, you
25 have not heard the last of us. God bless all. Keep your

1 faith and heart. Keep hate out and dreams alive. Randy
2 Halprin."

3 This is the letter you left in a book?

4 A. Yes, sir.

5 Q. And your last line was, "Believe me, you have
6 not heard the last of us."

7 A. Yes, sir.

8 Q. That turned out to be true, didn't it?

9 A. I guess, yeah. But it wasn't written in that
10 context as, you know, something is going to happen that, you
11 know.

12 Q. What context is it written in when you say,
13 "Believe me, you have not heard the last of us"?

14 A. If I'm correct, there's no proof of this,
15 obviously, but Larry Harper had talked about writing a
16 manifesto.

17 Q. Well, this is your writing?

18 A. Yes, sir, that's my writing.

19 Q. So you could understand why someone who might
20 read this and say you have not heard the last of us might
21 think you were planning something?

22 A. Yes, sir.

23 Q. Like revenge?

24 A. No, sir.

25 Q. Now, you have denied or you have lied about

1 this letter, haven't you?

2 A. I didn't deny the letter. I denied writing
3 anything like, you haven't heard the last of us, because I
4 didn't remember writing that, no, sir.

5 Q. Let me show you what has been marked as State
6 Exhibit 956, a letter to Dawn Amos.

7 A. Yes, sir.

8 Q. Dated March 20, 2001.

9 A. Yes, sir.

10 Q. That's a letter you wrote to Dawn?

11 A. Yes, sir.

12 MR. SHOOK: Your Honor, at this time we
13 offer State Exhibit 956.

14 MR. KING: No objection.

15 THE COURT: No. 956 shall be admitted.

16 Q. (By Mr. Shook) Let me start here. "I was
17 real close to Rivas and Garcia, also. Rivas was a good guy.
18 He just loved doing the work to get money. I always got
19 onto him about that. I blamed him for the Christmas Eve
20 incident because I told him it was wrong, too many kids and
21 all that. But he insisted and he was the great mind of the
22 group, so he got the final say. The other three guys I
23 couldn't give a rat's ass about. They were trash,
24 unchanged, and just wanted to make money, get hookers and
25 all that.

1 "In fact, one of those dumb nuts is the one
2 that left that note saying, 'You haven't heard the last of
3 us.' What an idiot. Like we were out to get revenge on
4 society or something. When they tried to say I was the one
5 that wrote that letter on AMW, I felt like busting the guy
6 in his nose. He was all laughing about it and all that
7 shit."

8 Now, those are your words?

9 A. Yes, sir.

10 Q. And you wrote that?

11 A. Yes, sir.

12 Q. You told the jury that you planned on just
13 fading away up in Seattle; is that right?

14 A. Yes, sir.

15 Q. Can't really fade away when you are going to
16 "not heard the last of us", can you? You understand what
17 those --

18 A. I understand what you saying.

19 Q. -- fading away --

20 A. I understand what you're saying, but I'm
21 saying the letter is being taken out of context.

22 Q. Obviously, you did remember what was written
23 about "you haven't heard the last of us", because you told
24 Dawn Amos that was an idiot who would write that?

25 A. Yes, sir.

1 Q. So you were lying about it then, weren't you?

2 A. Excuse me? Can you repeat what you had said
3 previously? About --

4 Q. About, "You haven't heard the last of us, what
5 an idiot. Like we were planning revenge on society or
6 something."

7 A. Right.

8 Q. You were lying about you being the author of
9 that letter?

10 A. Well, I didn't have any recollection of saying
11 anything or writing in anything like that. I never wrote
12 anything -- and I believe that at the time that I also had
13 challenged the press to produce the letter and it hadn't
14 come out at the time, so it confirmed my belief in that I
15 hadn't written that line.

16 Q. And now you are telling the jury you did write
17 it?

18 A. Yes, sir, I did write it.

19 Q. Let me show you. Do you remember interviewing
20 with -- a phone interview with Razuuk, Channel 8?

21 A. On the telephone?

22 Q. Right.

23 A. Yes.

24 Q. Mr. Halprin, I want to show you what has been
25 marked as State Exhibit 957, which is -- you haven't seen it

1 yet. It's a copy of that interview. I want to plug it in
2 to the part where she asks you that question. And if you
3 don't think that's you, just let me know and I'll take it
4 off.

5 A. I believe that I just stated, though, that I
6 did tell the press that I didn't write it.

7 Q. I just want to make sure we're talking about
8 the same interview.

9 A. All right.

10 [At this time the tape was played by
11 Mr. Shook.]

12 Q. (By Mr. Shook) You sound pretty sure in that
13 interview that you never wrote that statement.

14 A. Yes, sir. I was pretty sure until I just read
15 it with my own eyes, yes, sir.

16 Q. So you had just forgotten it?

17 A. Yes, sir.

18 Q. And you -- you know, you agreed to that
19 30-year sentence. You said that you had to do half of that
20 by law; is that right?

21 A. Yes, 15 years.

22 Q. Before you would be eligible for parole?

23 A. Yes, sir.

24 Q. But you -- did you not think that you deserved
25 a 30-year sentence for what you did to Jared smith?

1 A. My thinking, I deserved -- I think I deserved
2 punishment, yes, sir.

3 Q. But not 30 years?

4 A. I can't say 30 years. I mean, I can't say
5 that I didn't deserve 30 years, but I felt that when my time
6 came up, that if, you know, I've shown that I have gone
7 through the system and showed a change and rehabilitated
8 myself and done everything that was necessary to make
9 parole, and if I have shown that, then I should be able to
10 get parole and they weren't doing that.

11 Q. Well, that was going to be ten years down the
12 line, wasn't it?

13 A. Yes, sir.

14 Q. So you just thought you would free yourself
15 ahead of time?

16 A. Yes, sir.

17 Q. So you think that you have served enough time
18 for beating Jared smith and breaking his bones, what, five
19 years?

20 A. I felt that I could change myself. I felt
21 that I was a changed person.

22 Q. Why do you think that you felt like you were a
23 changed person?

24 A. I felt that I would never hurt somebody again.

25 Q. Okay. And then people are hurt during the

1 escape?

2 A. I never hurt anybody.

3 Q. But you partook in that escape where other
4 inmates hurt people, didn't you?

5 A. Yes, sir.

6 Q. And then you get with a group of guys whose
7 plan is to go out and stick guns in people's faces?

8 A. Yes, sir.

9 Q. For up to six months as far as you knew,
10 right?

11 A. Yes, sir.

12 Q. How can you say that you had changed, if you
13 are going to agree to commit those types of felony offenses?

14 A. I can't say. I can just say what I believe is
15 in my heart.

16 Q. Wasn't in your heart, but you went along with
17 it?

18 A. Yes, sir.

19 Q. These people that got guns put in their faces,
20 they obviously were very frightened?

21 A. Yes, sir.

22 Q. Probably had a lot of emotional trauma on
23 them?

24 A. Yes, sir.

25 Q. They didn't know if they were going to live or

1 die?

2 A. Yes, sir.

3 Q. And you helped commit those offenses?

4 A. Yes, sir.

5 Q. But you tell this jury you have changed?

6 A. I feel that I'm not a monster or a threat to
7 society or a violent person, no, sir.

8 Q. Well, you continue to lie?

9 A. Yes, sir, I lie.

10 Q. And you continue that while you've been in the
11 Dallas County Jail?

12 A. Yes, sir.

13 Q. So after you escaped, you took part in the
14 first robbery, is that right, the Radio Shack?

15 A. The Radio Shack.

16 Q. And I think you told Mr. King on direct that
17 after that you told the group you weren't doing that
18 anymore?

19 A. Yes, sir.

20 Q. Tell us about that. How did that come up?

21 A. The -- they hadn't got enough money from the
22 Radio Shack and Rivas was upset at the items that were
23 grabbed from the Radio Shack. So he said we're going to do
24 another one here in this area and I told him how I felt. I
25 said, "I don't like this. I feel very uncomfortable with

1 this. I'm not going to do it."

2 Q. And who did you tell that to?

3 A. I told Rivas that.

4 Q. And what did he say?

5 A. And we argued about it. He said, "You are
6 part of the group and you need to do your share." And I
7 said, "I'm not going to do it." And he kind of just passed
8 it off like, "Well, it's something small. We don't have to
9 worry about it. We don't need him."

10 Q. So then they need -- did need you on the
11 Oshman's robbery?

12 A. Yes, sir.

13 Q. And how come you agreed to do that?

14 A. But not without argument.

15 Q. Well, what did you say to them?

16 A. That was said before the Oshman's robbery?

17 Q. Right.

18 A. I basically asked why he was so intent on
19 doing something large like this.

20 Q. Then how come you agreed to do it?

21 A. I felt like I didn't have a choice.

22 Q. You say you are not a violent person, but when
23 you get pushed to a limit, you can become a totally
24 different person, can't you?

25 A. It takes a lot to push me to that limit, but

1 yes, I can lose my temper. It doesn't necessary mean I'm
2 going to be violent.

3 Q. Okay. You weren't forced into committing this
4 robbery of the Oshman's, were you?

5 A. No, sir, I was not forced.

6 Q. No one threatened you?

7 A. No, sir.

8 Q. And you helped plan it, didn't you?

9 A. I was in the listening of the plans. I didn't
10 have any direct say in what would be done or anything like
11 that.

12 Q. They sent you in to --

13 A. Yes.

14 Q. -- scout out the floor plan, didn't they?

15 A. Yes.

16 Q. Obviously they trusted you to do that?

17 A. With Rodriguez.

18 Q. Okay. But you were a valuable member of this
19 team, aren't you?

20 A. I wouldn't say I was very valuable.

21 Q. Why did they take you out of there, then?

22 A. Take me out of where?

23 Q. The Connally Unit?

24 A. Because Rivas and I were like brothers.

25 Q. So you were like brothers with Rivas?

1 A. Yes, sir.

2 Q. And you are cooperating and helping?

3 A. Yes, sir.

4 Q. But was Rodriguez -- are you trying to say
5 Rodriguez was your guard? He had to keep an eye on you?

6 A. That's who they always put in charge of me. I
7 guess you can say in charge.

8 Q. But he wasn't watching you like you were going
9 to run off, right?

10 A. Pretty much, yes, sir.

11 Q. So you were held as a hostage?

12 A. No. They were afraid -- no, not hostage.
13 They were afraid that I might try to leave with the vehicle
14 or something like that.

15 Q. Why were they afraid of that?

16 A. Because they knew how I felt about everything.

17 Q. Had you threatened to leave them?

18 A. I talked about it.

19 Q. Would you have been able to leave them?

20 A. I could have, yes, sir.

21 Q. How come you didn't?

22 A. I can't say.

23 Q. You can't say?

24 A. No, sir.

25 Q. So you are saying these guys thought you might

1 run off or they were scared, so they had someone with you
2 all the time?

3 A. Yes, sir.

4 Q. Why would they go in and commit a robbery like
5 the Oshman's robbery and have someone like you along that
6 they couldn't depend on?

7 A. They just had me get clothes.

8 Q. That would be pretty foolish, wouldn't it?

9 A. Foolish for what?

10 Q. Someone who is reluctant to go along on this?

11 A. I'm not understanding the question.

12 Q. Why would -- now, you said Rivas was pretty
13 smart, right?

14 A. Yes, sir.

15 Q. He planned out all those robberies?

16 A. Yes, sir.

17 Q. Why would he take someone along that he had to
18 keep a watch over, afraid he was going to run off with one
19 of the cars?

20 A. They wouldn't ever let me go out alone. They
21 wouldn't ever leave me alone in a motel. I mean, that's the
22 only conclusion that I can come to.

23 Q. But you were not a hostage?

24 A. No, I was not -- no one ever held a gun and
25 said, "You are going to stay here."

1 Q. And you did commit this robbery voluntarily?

2 A. Yes, sir.

3 Q. And you took a gun?

4 A. Yes, sir.

5 Q. A loaded gun?

6 A. Yes, sir.

7 Q. Why did you take a loaded gun?

8 A. I felt like I had no choice. The guns were
9 loaded, you know.

10 Q. You could have unloaded it, couldn't you?

11 A. I could have, yes, sir.

12 Q. But you chose not to?

13 A. It wasn't a choice. I just didn't.

14 Q. In fact, prior to the robbery some of these
15 guys had gone out and bought extra ammunition?

16 A. They had done that way earlier. I'm not sure
17 when they did that.

18 Q. Who is that?

19 A. I really don't know who went and got the
20 ammunition or not.

21 Q. You don't remember?

22 A. I can't recall.

23 Q. You mentioned that in your confession, that
24 someone else bought ammunition. Do you remember that?

25 A. I know that there was ammunition bought, but

1 I'm not sure -- I can't recall who did it or not.

2 Q. Well --

3 A. The ones who always went out were Rivas and
4 Harper and Newbury.

5 Q. Okay. Why would they need extra ammunition?

6 A. I really don't know.

7 Q. Why --

8 A. They like guns and they like ammo, is the only
9 thing I can say.

10 Q. Do you think that they might have thought
11 about using some of that ammunition?

12 A. Absolutely not.

13 Q. Then why would they need extra ammunition?

14 A. I don't know. I can't say what was in their
15 mind.

16 Q. Well, can you give us any reason or common
17 sense why you would need extra ammunition, other than you
18 might use it?

19 A. They could be using it for target practice. I
20 don't know.

21 Q. Did you ever see them use it for target
22 practice?

23 A. No, sir.

24 Q. What would they want target practice for?

25 A. I don't know. They have several gun buffs in

1 the group. I don't know.

2 Q. You were with a bunch of guys that are violent
3 felons. You know they like guns.

4 A. Yes, sir.

5 Q. And you know now they are buying extra
6 ammunition?

7 A. Yes, sir.

8 Q. And you said there was some incidents earlier;
9 is that right?

10 A. An incident pertaining to --

11 Q. In one of the other robberies?

12 A. A confrontation, you mean?

13 Q. Yes.

14 A. I know about the Radio Shack for sure. The
15 only thing I don't know about is the Auto Western. I can
16 only go by what Newbury had talked about.

17 Q. But nobody got killed?

18 A. Nobody got hurt or killed.

19 Q. I guess from seeing the Radio Shack, you knew
20 someone might try to resist, though.

21 A. I saw that, you know, people had come in and
22 surprised them and that nobody overreacted or did anything
23 foolishly.

24 Q. You mentioned in one of the letters that we
25 were looking at earlier that you said when Rivas planned out

1 this Oshman's that you argued against it because there were
2 all those kids involved.

3 A. Yes, sir.

4 Q. You were afraid something might go wrong in
5 there?

6 A. No, sir. I was just worried about their state
7 of mind. You know, you have a bunch of teenagers in there
8 and they are obviously going to be scared.

9 Q. Right. And might do something foolish?

10 A. Not necessarily, no.

11 Q. Might get shot?

12 A. Not necessarily.

13 Q. How come -- well, the target actually of the
14 Oshman's was to get guns, wasn't it?

15 A. That was just one of the things that George
16 Rivas had included with everything else.

17 Q. I mean, you got 44 guns out of there?

18 A. Yes, sir.

19 Q. Why did they want so many guns?

20 A. Some of them were going to be sold, some of
21 the guys kept some for personal, whatever, I don't know what
22 they planned to use it for or --

23 Q. Why did they need these extra guns? They
24 already had guns?

25 A. I really can't say what was in their minds.

1 Q. Do you think they were planning on using them?

2 A. No, sir.

3 Q. You even got a gun out of it.

4 A. I was issued a gun, yes, sir.

5 Q. Issued a gun?

6 A. Yes, sir.

7 Q. You didn't want the gun?

8 A. Not really.

9 Q. But you had it in your pack?

10 A. It was in my backpack.

11 Q. And it was loaded?

12 A. Yes, sir.

13 Q. So you go to the Oshman's. It's been planned
14 out. You planned it for what, three days?

15 A. I'm not sure exactly how many days it was
16 planned for. I can't really remember.

17 Q. But part of the plan was to have an escape
18 car; is that right?

19 A. Yes, sir.

20 Q. And what were you going to need an escape car
21 for?

22 A. Basically if we needed to take off on foot, we
23 could run across the field and get to the car.

24 Q. So you talked about that?

25 A. Yes, sir.

1 Q. And thought something might happen where you
2 may have to do that?

3 A. If Rivas couldn't get a car or anything like
4 that.

5 Q. Well, what were the other scenarios that were
6 talked about that might come up?

7 A. There were no other scenarios talked about.

8 Q. So if he couldn't get a car, y'all were all
9 going to run across the field?

10 A. Yes, sir.

11 Q. Abandon your property?

12 A. Not necessarily abandon all the property, but
13 some of it, yes, sir.

14 Q. You had police monitors?

15 A. Yes, sir.

16 Q. And Murphy's role was to sit out there and
17 monitor the police channels?

18 A. Yes, sir.

19 Q. Why did you need him to do that?

20 A. So we would know if anybody was coming, so we
21 could get out of there.

22 Q. So you obviously thought about the situation
23 where the police might be coming?

24 A. To leave, yes, sir.

25 Q. But you knew that was a possibility?

1 A. Yes, sir.

2 Q. And that's why you wanted him to listen to the
3 radio?

4 A. I didn't want him to listen, but, yes, sir.

5 Q. You knew that was part of the plan?

6 A. Yes, sir.

7 Q. You were in on that part?

8 A. Yes, sir.

9 Q. Were you there when Rivas would tell you how
10 this was going to go down?

11 A. Listening to the parts and the roles of
12 everybody, yes, sir.

13 Q. But you weren't doing the planning yourself?

14 A. No, sir.

15 Q. Did you miss that meeting where Mr. Murphy was
16 issued that AR-15 and was going to be a sniper --

17 A. That was never discussed in my presence.

18 Q. -- and was to initiate a fire fight? Well,
19 the statement has been introduced. You have heard it read?

20 A. Yes, sir.

21 Q. That's the first time you have ever heard
22 that?

23 A. I had read it previously. But, yes, sir, that
24 -- I had no recollection that that was what he said he was
25 going to do or anything like that.

1 Q. So if that was discussed, you just missed that
2 particular meeting?

3 A. It was never discussed. Those guys went into
4 town all the time during those days. So, I mean, that could
5 have been discussed during that.

6 Q. Apparently Mr. Murphy was anticipating some
7 trouble with the police, wasn't he?

8 A. I can't say what he was or what he wasn't.

9 Q. If you believe his statement where he says, "I
10 was to initiate the fire fight with pursuing police", that

11 --

12 A. If that's what he says, then he must have.

13 Q. But you didn't know about that?

14 A. I did not.

15 Q. What was the plan if the police were going to
16 come?

17 A. As far as I know, Rivas said that he was going
18 to show them the security badge or something to take them
19 offguard.

20 Q. Is that what he talked about?

21 A. Yeah. He said that he was going to do that,
22 something to take them offguard and they were going to try
23 to subdue them.

24 Q. And how was he going to subdue the police?

25 A. Use the handcuffs.

1 Q. So it had been talked about if the police did
2 arrive, they were going to be subdued?

3 A. In a nonlethal way, yes, sir.

4 Q. You are telling this jury you didn't think
5 anything bad would happen?

6 A. I didn't believe anything bad would happen.

7 Q. Mr. Halprin, you do have common sense, don't
8 you?

9 A. Yes, sir.

10 Q. You are trying to tell this jury that you
11 didn't think anything bad would happen when you were going
12 to go into an Oshman's with six other men, all are convicted
13 violent felons, some with murder, they are all armed, and
14 they know the police might come. You know that they are
15 capable of great violence?

16 A. Based on the previous robberies, I had no
17 reason to believe that they couldn't handle a situation
18 without violence erupting.

19 Q. You didn't think that was a possibility at
20 all, that someone might get hurt?

21 A. I didn't think anybody would get hurt.

22 Q. With that many men running around with guns?

23 A. No, sir. No, sir.

24 Q. So you go into the Oshman's and you start
25 gathering up clothes. That's part of your role?

1 A. Yes, sir.

2 Q. And you took a loaded gun in?

3 A. Yes, sir.

4 Q. And why is it you decided to take a loaded
5 weapon?

6 A. I felt I didn't have a choice.

7 Q. Someone force you to do that?

8 A. No, nobody forced me.

9 Q. But you could have unloaded it?

10 A. I could have, yes, sir.

11 Q. But you didn't?

12 A. No, sir.

13 Q. You know, when -- you are saying that you
14 weren't up there when the guns were pulled on the employees?

15 A. No, sir.

16 Q. You were with Mr. Rodriguez?

17 A. I was in the apparel section.

18 Q. But you were with Mr. Rodriguez?

19 A. Yes, sir.

20 Q. So that didn't happen? You didn't pull your
21 gun out then?

22 A. No, sir.

23 Q. But during the middle of this robbery you were
24 doing things like picking up clothes and also carrying the
25 guns to the back; is that right?

1 A. Yes, sir. I was told to go get the guns, yes,
2 sir, or the sleeping bag.

3 Q. And you knew while you were in the store that
4 the police were out front?

5 A. I knew that there was a suspicious call or
6 whatever and they said that somebody could possibly be
7 coming, yes, sir.

8 Q. Well, Murphy got on the radio and told all of
9 you that a police officer was out front, didn't he?

10 A. No, he said, "Get out, get out. This is a
11 suspicious call."

12 Q. Okay. Now, you are saying you heard Murphy
13 say what?

14 A. He said something about there was a suspicious
15 call and somebody was coming around or somebody was coming
16 -- something to that extent.

17 Q. Didn't say the police was there?

18 A. He could have.

19 Q. Well, let me show you your confession. It
20 says, "Murphy was on the radio saying there was a patrol car
21 out front and that a call had been made and the police had
22 been notified." Okay, is that the truth?

23 A. Yes, sir. I believe that's what I just said.

24 Q. Okay. Well, when you testified earlier you
25 said he only said, "Get out, get out."

1 A. Well, when I -- Rivas is the one that actually
2 said, "Get out, get out."

3 Q. So you knew while you were inside the store
4 that a police officer had pulled up outside the Oshman's?

5 A. I knew that a policeman was coming. I didn't
6 know that he had pulled up or pulled in or anything like
7 that. I didn't know where he was.

8 Q. Well, let me -- is that what -- Murphy told
9 you one was outside, didn't he?

10 A. He said one was coming around, yes, sir.

11 Q. "Murphy was on the radio saying there was a
12 patrol car in the front."

13 A. Okay. But you just said he just pulled up.

14 Q. Okay. You knew there was a patrol car in the
15 front?

16 A. I knew there was a patrol car near, yes, sir.

17 Q. That's what your language says right there,
18 right?

19 A. Yes, sir.

20 Q. So you knew there was a patrol car in the
21 front?

22 A. Yes, sir.

23 Q. And that's while you were in the store?

24 A. Yes, sir.

25 Q. Now you know there's a problem, right?

1 A. I know that somebody is coming, yes, sir, and
2 we need to get out.

3 Q. Not coming. He's out front.

4 A. Yes, sir.

5 Q. So you know he's there, right?

6 A. Yes, sir.

7 Q. Okay. So you are inside with the gun. You
8 are robbing people. And now you know a police officer is
9 out front?

10 A. Okay.

11 Q. Now, Mr. Halprin, you know there's a great
12 potential for violence now, don't you?

13 A. If Murphy said he was going to initiate a fire
14 fight, why didn't he do that in the front?

15 Q. But you know there is great potential for
16 violence now, don't you?

17 A. I know that somebody is coming. That doesn't
18 mean the situation can be disposed of.

19 Q. There's a lawman out there, right?

20 A. We could have gotten out. We could have all
21 gotten into the car and drove away.

22 Q. There's a lawman out front.

23 A. Okay.

24 Q. His job is to catch outlaws.

25 A. Yes, sir.

1 Q. Such as yourself.

2 A. Yes, sir.

3 Q. And you are in there with your six friends
4 with guns.

5 A. Yes, sir.

6 Q. So you know there's a great chance something
7 bad is going to happen, don't you?

8 A. No, sir.

9 Q. You didn't think anything bad was going to
10 happen?

11 A. Not deadly.

12 Q. So Murphy tells you while you are in the store
13 that there's a police officer out front. You didn't leave
14 then, did you?

15 A. No, sir.

16 Q. You could have run out the back door, couldn't
17 you?

18 A. Yes, sir.

19 Q. Could have taken off across that field?

20 A. Yes, sir.

21 Q. But you didn't do that?

22 A. No, sir.

23 Q. Y'all continued to try to get your guns and
24 money out of there?

25 A. Yes, sir.

1 Q. In fact, at that time you are the one that
2 grabbed the money?

3 A. Yes, sir.

4 Q. They obviously trusted you to grab that
5 \$70,000?

6 A. That was the bag that Rivas put down by the
7 counter and told me to watch.

8 Q. You go to the back now; is that right?

9 A. Yes, sir.

10 Q. When you go to the back, you know the police
11 -- he's out front?

12 A. Yes, sir.

13 Q. And then later on you knew he was coming
14 around?

15 A. Yes, sir.

16 Q. Because Murphy told you he was coming around?

17 A. Yes, sir.

18 Q. So y'all were ready for him?

19 A. No, sir, not in the readiness that you are
20 implying, because when he pulled up behind us, it was still
21 a shock.

22 Q. It was a shock?

23 A. Yes, sir.

24 Q. You didn't think the police would come around?

25 A. I didn't think they were going to drive up. I

1 thought we were going to be able to get away before he came
2 around. When he said the car was in the front, there's no
3 telling where he could have gone.

4 Q. You just said Murphy told you that he's coming
5 around.

6 A. Okay. But where? Which way? Coming around
7 where, though?

8 Q. When he's coming around, you didn't figure he
9 was coming to the back where you were?

10 A. I didn't know where he was going.

11 Q. Who was out there when the police officer
12 drove up?

13 A. Rivas, Joseph Garcia, Harper was out there and
14 Rodriguez was out there.

15 Q. Okay. And where were they?

16 A. They were all out, piling stuff into the car.

17 Q. Why don't you stand up and kind of draw how
18 everything was going on out there.

19 A. I was loading.

20 Q. If you would, why don't you draw a rectangle
21 where the Explorer was.

22 A. (Witness complies.)

23 Q. And where?

24 A. Two doors are open.

25 Q. Two doors are open?

1 A. You have the rectangle with the two doors open
2 and then the staircase is right here, if I remember
3 correctly. And everybody was just putting stuff, putting
4 stuff into the car loading it in.

5 Q. Hold it right there. Now, Officer Hawkins
6 drives up?

7 A. Yes.

8 Q. Draw on the diagram where he parked. If you
9 would put initials where everyone is when Officer Hawkins
10 drove up.

11 A. Where everybody was? Initials of the people?

12 Q. Right.

13 A. Rivas --

14 Q. Put a G before that.

15 A. Sorry. Larry was trying to get the smoke
16 grenade lit or whatever. He was still in the doorway of the
17 -- but this is the doorway right here. He was trying to
18 light the smoke bomb and a couple of guys were --

19 Q. So is Larry Harper here?

20 A. He was on the staircase, fire exit door.

21 Q. If you would put an LH there.

22 A. Okay.

23 Q. And you said Garcia was out there?

24 A. Garcia was out there.

25 Q. Where was Garcia?

1 A. I can't remember exactly where he was. I just
2 know he was out there.

3 Q. Do you know the general vicinity?

4 A. Around the Explorer.

5 Q. Like on this side?

6 A. I can't say. I can't recall.

7 Q. Do you know what he was doing?

8 A. Putting stuff in the car, also.

9 Q. Same place you were?

10 A. We were, you know, some were moving.

11 Q. But are you on the same side of the car?

12 A. Yes, sir. On the same side of the car.

13 Q. So he's in here?

14 A. Yes, sir.

15 Q. Put his initials in here. You said Michael
16 Rodriguez was out there, too?

17 A. Yes, sir.

18 Q. Where was he?

19 A. He was somewhere in the area. I don't know
20 where he was at. I remember him being out there.

21 Q. Was he loading stuff, too?

22 A. Yes, sir. Every once in a while before he
23 pulled up somebody would run upstairs and grab bags and run
24 back down.

25 Q. At the time he pulled up, was he loading stuff

1 with you and Garcia?

2 A. Yes, sir.

3 Q. So he was on the same side?

4 A. Yes.

5 Q. Put MR. So we've got George Rivas here by the
6 front of the Explorer and you and Garcia and Michael
7 Rodriguez all loading equipment in?

8 A. Yes. And I believe Newbury was still at the
9 time before the officer showed up, he was still tying people
10 up in the breakroom.

11 Q. Okay. And when the officer showed up, where
12 was Newbury?

13 A. He just came running out. I don't know where
14 he came from.

15 Q. Was that after the shooting started?

16 A. That was after the shooting started.

17 Q. And then -- okay. So then the officer drives
18 up and George Rivas then walks up to him?

19 A. He told me -- he said, "Stay put."

20 Q. Told you to stay put?

21 A. Yes, sir.

22 Q. Did everyone else stay put?

23 A. I was not aware of what they were doing at
24 that time.

25 Q. Did you see them move?

1 A. I don't recall.

2 Q. Do you know if they moved?

3 A. I can't recall.

4 Q. Go ahead and have a seat. So George Rivas
5 pulls up -- I mean, the Officer Hawkins pulls up and George
6 Rivas tells you, "I'll take care of him"?

7 A. No, he says, "Stay put."

8 Q. "Stay put"?

9 A. Yes, sir.

10 Q. Did he ever say, "I'll take care of him"?

11 A. No, sir.

12 Q. And he started walking toward Officer Hawkins'
13 car?

14 A. He started walking toward the officer's car
15 and reaching for something that I assumed at the time was
16 his ID badge.

17 Q. Now, at this point in time you have got a
18 bunch of guys with guns out in the back; is that right?

19 A. Yes, sir.

20 Q. You have got George Rivas walking to a police
21 car?

22 A. Yes, sir.

23 Q. You have got him outnumbered?

24 A. Yes, sir.

25 Q. But he's got you blocked in?

1 A. Yes, sir.

2 Q. You got to get that car out of the way or you
3 are not going to be able to get out of there?

4 A. Yes, sir.

5 Q. Now, at this point in time, Mr. Halprin, you
6 know something bad is about to happen?

7 A. No, because there was nothing to tell me that
8 Rivas couldn't have handled the problem.

9 Q. Do you think Aubrey Hawkins was just going to
10 give up? Say, hey --

11 A. I don't know what was in his mind. I don't
12 know --

13 Q. That was an armed lawman. Any doubt about
14 that in your mind?

15 A. No doubt about that, no, sir.

16 Q. His sworn duty is to stop people like you.

17 A. Yes, sir.

18 Q. And he's parked behind you?

19 A. But when somebody is scared, they can do
20 anything.

21 Q. He's parked behind you?

22 A. Yes, sir.

23 Q. And you don't think there is any potential for
24 violence out there?

25 A. Not in my mind at the time.

1 Q. Not at all?

2 A. No, sir.

3 Q. And then when George Rivas walks up to the
4 car, he doesn't hesitate?

5 A. He reached for something and then the next
6 thing I know -- I just hear gunshots.

7 Q. How many shots do you hear?

8 A. I heard a series. I thought -- I believed it
9 was four at the time.

10 Q. Now, you didn't raise a finger to stop Rivas,
11 did you?

12 A. No. I took off running when he started firing
13 the shots.

14 Q. But before that, you didn't try to stop him,
15 did you?

16 A. No, sir. Because I didn't believe that he was
17 going to fire the shots.

18 Q. And you didn't -- when you saw that police
19 officer pull up, you didn't run across the field, did you?

20 A. No, sir.

21 Q. You could have, couldn't you?

22 A. Yes, sir.

23 Q. Could have avoided this whole thing and taken
24 off?

25 A. Yes, sir.

1 Q. But you didn't do that?

2 A. No, sir.

3 Q. You say you didn't start running until Rivas
4 started firing shots?

5 A. When the first initial gunshots were fired,
6 that's when I took off running around the Explorer.

7 Q. And which way did you run?

8 A. I went behind and I was heading for -- there's
9 a green or grass embankment of some sort, kind of goes down
10 at an angle and that's what I was heading for it, because
11 there's the road and then there's a field. And then as I
12 was taking off running, somebody called my name and I turned
13 around and that's when I felt my foot go numb, as I was
14 coming around the --

15 Q. There's nothing but solid gunshots going off,
16 isn't it?

17 A. There was -- it was a series. There was a
18 pause and somewhere in it was like pop, pop, pop, and then a
19 pop, pop, pop, pop, and then, you know, another series of
20 gunshots.

21 Q. So you heard the witnesses describe virtually
22 one right after the other, isn't it?

23 A. If that's what they say it is. I can't recall
24 exactly how it was at that time. I just know I heard
25 somebody called my name and I turned around and that's when

1 I felt my foot go numb.

2 Q. Would you show us on the diagram the path you
3 took?

4 A. Yes, sir. Where is the -- where would the car
5 be?

6 Q. The car would be in this area.

7 A. It would be in this area right here. When
8 somebody fires a shot, that's when I took off this way. And
9 if I'm correct, this would be a little green embankment or
10 some kind of little hill or grass.

11 Q. Did you make it over the embankment?

12 A No, sir.

13 Q. How far did you get?

14 A. I didn't even really get to the grass when
15 someone called my name and I felt my foot go numb.

16 Q. So you never made it this far?

17 A. No, sir.

18 Q. And then you heard someone calling your name?

19 A. I heard somebody say, "Randy."

20 Q. Why did they say that?

21 A. I have no idea.

22 Q. Then your foot went numb?

23 A. And then my foot went numb.

24 Q. Were you running away when your foot went
25 numb?

1 A. When my foot went numb, it caught me -- as I
2 turned it caught me and I felt it and I go, "Oh, shit," like
3 that. And then I took off running again and I actually got
4 to the grass. By then the car was already backing up.
5 There was movement back here and the car was coming out.
6 And somebody said, "Get in, get in." And that's when I
7 hopped into Newbury's lap and --

8 Q. So you never made it across --

9 A. No, I never made it across there. I had
10 actually touched grass that time.

11 Q. All right. You never made it across this
12 street?

13 A. No, sir.

14 Q. You never made it into the field that --

15 A. No, sir.

16 Q. Never made it to the field?

17 A. No, sir.

18 Q. Okay. And that's where you got into the car?

19 A. Yes, sir. It was coming out. It was coming
20 out like this and somewhere in this area, I would say that's
21 -- the car came in this area and that's where I got into the
22 car.

23 Q. And where did Michael Rodriguez --

24 A. He got in somewhere. I want to say the car
25 was already starting to pull off when he got in.

1 Q. So you never ran across the street or into the
2 field?

3 A. No, sir.

4 Q. And you said the only person you saw shooting
5 was George Rivas; is that right?

6 A. Originally. Those were the first shots fired,
7 but gunshots were erupting everywhere and I assumed that
8 everybody else was firing. And then the stories when they
9 talked about it later everybody was, who did what?

10 Q. Who took credit for doing what?

11 A. Everybody, everybody but me. They were
12 blaming me at first and I said, "Find the gun in the bag.
13 The gun's in a bag somewhere."

14 Q. No, I want to know who took credit for
15 shooting Aubrey Hawkins?

16 A. Rivas took -- he said, "If anything happens, I
17 shot him. I'm the one that killed him. I think I killed
18 him."

19 Q. What about the others? Did they say they shot
20 him?

21 A. No. They said that they were firing their
22 gun. At the time Rodriguez said he believed that he had
23 shot him in the head.

24 Q. What did he say about that?

25 A. He said that he had fired two shots at the

1 time.

2 Q. And how did that happen?

3 A. I can't recall. He just -- they were talking
4 about it and that's what he said he had done.

5 Q. So Michael Rodriguez says he shot him twice in
6 the head?

7 A. That's what he had said at first, yes.

8 Q. And Rivas said he shot him how many times?

9 A. He initially said four times.

10 Q. Obviously, Officer Hawkins was shot a lot more
11 than that, wasn't he?

12 A. Yes, sir.

13 Q. The intent out there, obviously, was to kill
14 Aubrey Hawkins, wasn't it?

15 A. Yes, sir.

16 Q. Shot 11 times?

17 A. Yes, sir.

18 Q. His bulletproof vest was hit?

19 A. Yes, sir.

20 Q. His car was surrounded and fired at from
21 several angles?

22 A. Yes, sir.

23 Q. And the intent was clear to murder him?

24 A. Yes, sir.

25 Q. Because he was in the way?

1 A. Yes, sir.

2 Q. The only way you could get away is if he was
3 dead and you could get him out of the way?

4 A. I don't know why they started firing on him.
5 But I know when you shoot a gun, it's usually to kill
6 somebody, yes, sir.

7 Q. Usually when you bring a loaded gun to a
8 robbery, you plan on using it or at least the potential,
9 don't you?

10 A. Not necessarily, no, sir.

11 Q. Why else would you bring a loaded gun to a
12 robbery?

13 A. To intimidate, to get somebody to cooperate
14 easier.

15 Q. Do you remember giving an interview to a guy
16 named Jason Bromley?

17 A. Yes, sir. Is it Jason or Jay?

18 Q. It may be Jay. Do you remember talking about
19 the shooting and how it occurred with him?

20 A. Yes, sir. I remember going over it in an
21 interview, yes, sir.

22 Q. I want to show you what has been marked as
23 State Exhibit 959, which, I believe, is going to be that
24 interview. I want to play that portion of the interview
25 where you talk about the shooting. If that's not you, let

1 us know and we'll turn it off.

2 MR. SHOOK: Your Honor, at this time we
3 offer State Exhibit 959.

4 MR. KING: No objection.

5 THE COURT: No. 959 is admitted.

6 [At this time the tape was played
7 for the jury.]

8 Q. (By Mr. Shook) You talking about Michael
9 Rodriguez?

10 A. Michael Rodriguez, yes, sir. When I said
11 field --

12 Q. You said, "I had taken across the field --"

13 A. -- I meant the grassy bank.

14 Q. Oh, that's what you meant? The grassy bank?

15 A. Yes, sir.

16 Q. But you said, "field".

17 A. I wasn't aware that it was actually a grassy
18 bank until I saw the diagrams and everything now.

19 Q. Well, how big is the grassy bank?

20 A. I can't recall how large it was. All I know
21 is I was shot in the foot and I was trying to get away.

22 Q. Is that the embankment you are talking about?

23 A. That is the embankment, yes, sir.

24 Q. You could hardly confuse that as a field,
25 could you?

1 A. At the time I was calling it a field. I don't
2 -- really can't give any other explanation.

3 Q. That's obviously not more than, what? How
4 many feet would you say that is?

5 A. Um, it appears to probably be about five or
6 six feet.

7 Q. State Exhibit 57, that's the field that you
8 have to get across to your car?

9 A. Yes, sir.

10 Q. Right?

11 A. Yes, sir.

12 Q. You are grinning there, saying, "I'm limping
13 across the field"?

14 A. Yes, sir. I don't think that I was grinning,
15 but --

16 Q. Well, we can look at it again. You weren't
17 grinning there?

18 A. I'm was saying I'm limping with a flutter of
19 the eyes.

20 Q. You are saying now that you were confused and
21 --

22 A. Yes, sir. At the time I was confused, yes,
23 sir.

24 Q. You were just confused in that interview?

25 A. Yes, sir.

1 Q. And what you really mean is embankment?

2 A. Grass.

3 Q. Of course, at the time you gave that
4 interview, you didn't know we had this security tape and
5 could see if anyone crossed that street.

6 A. No, sir.

7 Q. But you have viewed the tape here in court,
8 haven't you?

9 A. I've seen the tape, but I can't make anything
10 out of it.

11 Q. Well, you can see the Explorer going down
12 street, couldn't you?

13 A. I couldn't see an Explorer.

14 Q. But today your story is what you meant by
15 limping across the field was just that embankment?

16 A. That grass and I don't think that changes.

17 Q. You said that you feel really bad about what
18 happened; is that right?

19 A. Yes, sir.

20 Q. Every time you look at your foot, you think --
21 you think of what happened out there?

22 A. I do.

23 Q. You plan on making some money off of this?

24 A. Was I? I had tried to make some money, yes,
25 sir.

1 Q. You wanted to get a book deal to tell your
2 story, right?

3 A. I believe I also said that a certain
4 percentage would be used for victim rights. But that was
5 basically to survive in prison.

6 Q. Let me show you what has been marked as State
7 Exhibit 960, a letter to Jennifer Roe.

8 A. Yes, sir.

9 Q. May 10, 2001. Is that a letter you sent to
10 her?

11 A. Yes, sir.

12 MR. SHOOK: Offer State Exhibit 960.

13 MR. KING: No objection.

14 THE COURT: No. 960 shall be admitted.

15 Q. (By Mr. Shook) "I do plan on eventually
16 writing a book about my life and the whole Texas Seven
17 incident. I thought about giving certain percentages of the
18 money to different organizations. I thought about Hawkins'
19 son and also the child I hurt and when I was on acid. I
20 would probably go for 30 or 40 percent for me and split the
21 rest up among the ones I mentioned. Maybe I would give a
22 little to a victims right advocates, also."

23 A. Yes, sir.

24 Q. So you thought maybe you would write a book on
25 there and you could take 30 or 40 percent of the profits for

1 yourself?

2 A. That was to get by in prison, yes, sir.

3 Q. So you thought you might earn money off of
4 this whole deal?

5 A. Not as a cashing in on telling my story or
6 anything like that.

7 Q. That's what you would be doing, wouldn't you?

8 A. It's to survive in prison. I also said I
9 would give more, more than half, to other things besides
10 myself.

11 Q. But you would take some of that cash?

12 A. Yes, sir.

13 THE COURT: Thank you, Mr. Shook. That
14 will be enough for today. Folks, it's been a long day.
15 Obviously, again, I'm going to leave you with the same
16 instructions. Media coverage. Do not, do not, do not watch
17 the media. Don't read the paper, talk to friends, spouses
18 or anyone else. Don't let anyone else tell you what your
19 opinion should be about what you heard from this witness.

20 With that we shall stand in recess until 8:30
21 tomorrow morning.

22 [End of Volume]

23

24

25

1 STATE OF TEXAS *

2 COUNTY OF DALLAS *

3 I, NANCY BREWER, Official Court Reporter for the 283rd
4 Judicial District Court, do hereby certify that the above
5 and foregoing constitutes a true and correct transcription
6 of all portions of evidence and other proceedings requested
7 in writing by counsel for the parties to be included in this
8 volume of the Reporter's Record, in the above-styled and
9 numbered cause, all of which occurred in open court or in
10 chambers and were reported by me.

11 WITNESS MY OFFICIAL HAND on this the 29 day of
12 9, 2003.

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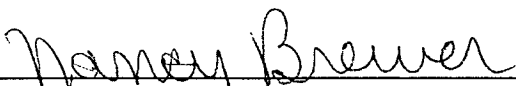
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